

# **North Carolina Real Estate Broker Prelicense Course Syllabus**

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# INTRODUCTION

## Course Description

The *Real Estate Broker Prelicense Course* is an introductory level real estate principles and practices course with heavy emphasis on real estate **brokerage** law and practice. The primary objectives of this course are (1) to provide students with the basic knowledge and skills necessary to act as a licensed real estate broker in a manner that protects and serves the public interest and (2) to prepare students for the real estate license examination. Major topics addressed in this course include basic real property law, property taxation, land use controls, environmental hazards, brokerage relationships and practices, real estate contracts, real estate financing, closing a real estate sale transaction, real estate valuation, fair housing, landlord and tenant, property management, federal income taxation of real estate, basic house construction, basic real estate investment, the North Carolina Real Estate License Law and North Carolina Real Estate Commission Rules and Trust Account Guidelines.

## Required Course for Real Estate Licensure

The *Real Estate Broker Prelicense Course* is required for persons desiring to qualify for the North Carolina real estate license examination and to obtain a real estate broker license. This course may be offered only by schools and instructors approved by the North Carolina Real Estate Commission using this prescribed syllabus.

## Course Hours and Delivery Method

The *Real Estate Broker Prelicense Course* must consist of a minimum of 75 classroom hours, although approved schools may, at their option, schedule the course for more than 75 hours. The course may only be offered using a live classroom presentation method.

## Course Scheduling

See Commission Rule 21 NCAC 58C.0305 for restrictions on course scheduling by schools.

## Textbooks and Other Instructional Materials

Approved texts and other required/recommended instructional/reference materials are described in the Bibliography that follows the Outline portion of this syllabus.

## Schools and Instructors

Schools must have a current Commission approval (or license, if a private real estate school) to offer this course prior to commencement of any advertising for the course. Instructors must be approved by the Commission prior to commencement of the course. (Contact the Commission's Education Section for detailed information.)

## Order of Subject Area Presentation

The order in which subject areas are presented in the Outline is the *recommended* order. Instructors may make reasonable adjustments in the order of presentation, but should retain a logical order of presentation in any event.

## Recommended Major Subject Area Emphasis

Recommended subject area emphasis *by major subject area* (i.e. topics preceded by a Roman numeral) has been provided in this syllabus in the form of recommended number of classroom hours to be devoted to each major subject area. Instructors may make reasonable minor adjustments in subject area emphasis to suit their class schedules and instructional approach; however, instructors are cautioned against undue overemphasis or underemphasis of topics.

## Competency and Instructional Levels

Each *major topic* (i.e., *topic preceded by a capital letter*) in the Outline has been assigned a "competency and instructional level" of 1-3 in order to assist the instructor in determining the appropriate level of emphasis and instruction. In some instances where a subtopic should be afforded significantly greater or lesser emphasis than that indicated by the level assigned to the major topic under which it is listed, such subtopic has been assigned a different level that applies to that subtopic only.

Competency and instructional levels have been assigned based on the relative importance of the topic and the degree of knowledge or skill needed by real estate brokers with regard to the topic. ***Instructors are REQUIRED to comply with the assigned competency and instructional levels (and special notes to instructors) when teaching this course.***

As used here, the term "competency" refers to the knowledge/ability ("cognitive") level expected of students with regard to a particular topic, while the term "instruction" refers to the depth of instruction and the instructional methods that should be utilized.

Shown on the next page are the three competency and instructional levels used in the Outline and the meaning of each. Level 1 is the lowest level and Level 3 is the highest level.

### **Level 1 – Basic Knowledge**

- Competency:** Student should possess a *basic level of knowledge* of the topic that is sufficient to *recall, recognize, identify, list, describe, etc.* definitions of common terms, basic facts/concepts/principles and basic procedures/methods.
- Instruction:** Instructor should review and discuss the appropriate *basic* definitions, facts, concepts, procedures, etc. No in-depth instruction required.

### **Level 2 -- Comprehension**

- Competency:** Student should possess a *moderately comprehensive level of knowledge and understanding* of the topic that is sufficient to *explain, discuss, interpret, restate, summarize, etc.* facts, principles, procedures, etc. and how they relate to real estate brokerage practice.
- Instruction:** Instructor should review and discuss the topic *in moderate depth* sufficient to reasonably assure substantial comprehension, using examples (as appropriate) to illustrate and enhance understanding of facts, principles, procedures, etc. and their relevance to brokerage practice.

### **Level 3 – Application and Analysis**

- Competency:** Student should possess a *substantial working knowledge and understanding* of the topic that is sufficient to *select, apply, use, compare/contrast, analyze, etc.* relevant facts, principles, procedures, etc. in a variety of common fact situations likely be encountered in real estate practice.
- Instruction:** Instructor should review and discuss the topic *in substantial depth*, using examples (as appropriate) to reinforce understanding of ideas, principles and practices, and requiring students to complete *practical work assignments* (as appropriate) to demonstrate both their understanding of the topic and their ability to *apply their knowledge to common fact situations* that will be encountered in real estate practice.

### **Real Estate Mathematics Instruction**

This syllabus calls for instruction on mathematical functions relating to real estate practice to be provided under the various subject areas involving such mathematical functions rather than as a separate subject area. To assist instructors, however, all required real estate mathematics instruction is listed in a separate section of the Outline (XXII). Consideration was given to the amount of mathematics involved in each subject area when establishing the recommended number of classroom hours for subject areas. This integrated approach is recommended because

it helps assure that students understand how various mathematical functions relate to the various areas of real estate practice. *Instruction in basic mathematics concepts such as decimals, fractions, percentages, multiplication, division, etc. is not included in this course syllabus. Students deficient in basic math skills should be provided special assistance outside of class or directed to take a math refresher course.*

## **Course Completion Standards**

Course completion standards are described in Commission Rule 21 NCAC 58C.0304. ***It is especially important that school officials and instructors fully understand and strictly adhere to all the standards described in this rule.*** Note especially the requirements for a 75% passing score on the final course examination and for 80% attendance. Schools and instructors are held accountable by the Commission for the performance of their students on the real estate license examination. It is essential that schools and instructors establish and enforce course completion standards that are sufficiently high to assure that the performance of their students on the license examination is satisfactory. Suggestions for improving the performance of students on the license examination are available from the Commission.

## **Recommended Commission-Developed Final Course Examination**

*The Commission strongly recommends that approved schools and instructors use the final course examinations that have been developed by the Commission for use in this course.* The recommended passing score on these examinations is 75%, which is the minimum passing score required by rule for a course final examination. Note that the Commission-provided examinations are copyrighted and may only be used by schools and instructors as complete final examinations for this course. They may not be used as “practice” examinations, nor may individual questions from these examinations be used for other purposes (e.g., interim tests). Schools that do not use the Commission-recommended final course examinations may be required to submit their examinations for Commission review and approval.

## **Syllabus Copies**

Copies of this syllabus are provided free of charge by the N.C. Real Estate Commission to *licensed/approved schools* and to *approved instructors*. Both a hard copy and an electronic version is available. Schools/instructors may reproduce all or part of this syllabus for student use at their own expense, and may charge students for the cost of reproduction.

# Real Estate Broker Prelicense Course

## RECOMMENDED MAJOR SUBJECT AREA EMPHASIS

Pages		Subject Area	Number of Classroom Hours
		Course Orientation and Overview	0.25
1	I.	Basic Real Estate Concepts	0.25
2-5	II.	Property Ownership and Interests	4.5
5-6	III.	Property Taxation and Assessment	1.5
6-9	IV.	Transfer of Title to Real Property	2.0
9-11	V.	Land Use Controls	2.0
11-12	VI.	Environmental Issues in Real Estate	0.5
13-19	VII.	Brokerage Relationships: Laws and Practice	6.0
20-26	VIII.	Agency Contracts (Sales) and Related Practices	6.0
26-28	IX.	Basic Contract Law	1.75
28-31	X.	Sales Contracts and Related Procedures	7.0
31-37	XI.	Real Estate Financing	7.0
37-41	XII.	Closing a Sale Transaction	8.0
41-45	XIII.	Real Property Valuation	6.0
45-47	XIV.	Landlord and Tenant	2.25
47-48	XV.	Property Management	2.25
48-49	XVI.	Fair Housing	1.5
49-50	XVII.	Federal Income Taxation of Home Ownership/Sale	1.0
51-53	XVIII.	Basic House Construction	1.0
53-54	XIX.	Basic Real Estate Investment	2.0
55-59	XX.	License Law and Commission Rules	8.0
59	XXI.	Agent Safety	0.5
59-62	XXII.	Real Estate Mathematics <i>[No separate time allocation]</i>	0.0
		Review (Instructor Discretionary Time)	0.75
		Final Examination	3.0
		<b>TOTAL CLASSROOM HOURS</b>	<b>75</b>

# REAL ESTATE BROKER PRELICENCE COURSE

## OUTLINE

**NOTE:** Before using this outline, instructors should read carefully the introductory section to the syllabus, noting especially the discussions concerning “Recommended Major Subject Area Emphasis” and “Competency and Instructional Levels.” It is especially important that instructors fully understand the system of “competency and instructional levels” used in this outline. Instructors should also read carefully the notes preceding the outline section on “Real Estate Mathematics” prior to using this outline.

### **I. BASIC REAL ESTATE CONCEPTS [0.25 hours]**

#### **A. General Characteristics of Real Estate [Level 1]**

1. Basic Terminology and Definitions
  - a. Real Property – “Lands, Tenements and Hereditaments”
  - b. “Lands” includes: The soil, natural plant life, minerals and waters beneath the surface, air space above the surface and things affixed permanently to the soil (improvements).
  - c. The terms “real property,” “real estate,” “realty” and “lands” may be used interchangeably.
  - d. Personal Property – All property that is not real property.
2. Physical Characteristics of Land
3. Economic Characteristics of Land

#### **B. General Concepts of Land Use and Investment [Level 1]**

1. The Highest and Best Use Concept
2. Public and Private Land Use Restrictions [*Brief introduction to topic here; cover in depth under “Land Use Controls”*]
3. Real Estate as an Investment
4. Scope of the Real Estate Business
5. The Real Estate Market

## II. PROPERTY OWNERSHIP AND INTERESTS [4.5 hours]

### A. The Concept of Property [*Level 2 except for “Fixtures”*]

#### 1. Real Property

- a. Basic Definition [*Covered in previous section.*]
- b. The “Bundle of Rights” Concept
  - (1) Basic rights of real property owners
    - (a) Right to exclusive possession and use (enjoyment)
    - (b) Right to profits
    - (c) Right of disposition (right to transfer ownership or interests)
  - (2) Appurtenances (appurtenant rights)
    - (a) Subsurface rights
    - (b) Air rights
    - (c) Water rights (riparian and littoral rights), including the terms “accretion,” “reliction,” “erosion,” and “avulsion.”
    - (d) Right to lateral support
    - (e) Right to subjacent support
    - (f) Benefit of any appurtenant easement [*Cover in depth under “Encumbrances to Real Property.”*]
    - (g) Benefit of any protective (restrictive) covenants [*Cover in depth under “Land Use Controls.”*]

#### 2. Personal Property

#### 3. Fruits of the Soil

- a. *Fructus Naturales*
- b. *Fructus Industriales* (“emblems”)

#### 4. Fixtures [*Level 3 - this subtopic*]

- a. Definition
- b. Criteria for Determining If Item Is a Fixture [*Students should be able to apply these criteria to common fact situations.*]
- c. Trade and Agricultural Fixtures
- d. Effect of Uniform Commercial Code (G.S. 25-9-313) concerning security interests in fixtures

#### 5. Improvements (on or to land) – note that meaning depends on context

- a. “Improved Land” or “Improved Lot” may also have dual meanings  
**Note:** *For the “national” exam, consider an “improvement” as an “appurtenance.”*

#### 6. Manufactured Homes

- a. Definition



- b. Manufactured homes are personal property until converted to real property.
- c. Requirements for conversion to real property.

**B. Estates in Real Property** *[Level 2 except as noted below]*

1. **Freehold Estates**

- a. Estates of Inheritance
  - (1) Fee Simple Estate
  - (2) Defeasible Fee Estates *[Level 1 - this subtopic]*
  - (3) Estate for Life of Another
- b. Estates Not of Inheritance (Life Estates)
  - (1) Estate for Tenant's Own Life (Conventional Life Estate)
  - (2) Marital Life Estates *[Level 1 - this subtopic]*

2. **Nonfreehold (Leasehold) Estates** *[Mention only; cover under "Landlord and Tenant".]*

**C. Ownership of Real Property** *[Level 2 except as otherwise noted]*

1. **Severalty (Sole) Ownership**

2. **Concurrent (Joint) Ownership** (Basic characteristics of each type, including effect of the death of or transfer of interest by one co-tenant)

- a. Tenancy in Common
- b. Joint Tenancy
 

***Note:** Though used infrequently in NC, joint tenancy is widely used in many other states and is tested on the "national" exam.*
- c. Tenancy by the Entirety

3. **Common Interest Community Ownership** (Basic characteristics of each type)

- a. Condominium Ownership ***Note:** Include coverage of "limited common elements" (e.g., assigned parking spaces or storage areas).]*
- b. Townhouse Ownership
- c. Cooperative Ownership *[Level 1 – this subtopic]*
- d. Time Share Ownership *[Mention only – cover in more depth under "Real Estate License Law and Commission Rules]*
- e. Planned Unit Development (PUD) *[Note how typical features compare to those of a typical residential subdivision.]*

**D. Encumbrances to Real Property** *[Level 2 except as noted below]*

**1. Liens**

**a. Specific Liens**

- (1) Mortgages (Deeds of Trust) *[Mention only; cover in depth under "Mortgages and Deeds of Trust." ]*
- (2) Real Estate Tax and Assessment Liens *[Mention only; cover in depth under "Property Taxation and Assessment." ]*
- (3) Mechanics' Liens

**Note:** Note that the NC statutes on mechanics' liens were amended effective April 1, 2013 to require that for all construction projects, residential or commercial, where the cost equals or exceeds \$30,000, except for owner-occupied single family residences, a "lien agent" must be appointed and the provider of services must file a Notice to Lien Agent within 15 days of commencing work in order to be able to subsequently file a mechanics' lien (within 120 days of completing services) and have his lien have priority over another lien (e.g., a mortgage) that was recorded after the work had commenced but before the lien claim was filed. [See pages 49-51 of the **2013-14 NC Real Estate Manual.**]

- (4) Commercial Real Estate Broker Lien *[Level 1 – this subtopic]*

**Note:** A NC law effective October 1, 2011 established a procedure by which a broker may protect his/her right to be paid his/her brokerage fee in the sale/lease of commercial real estate by obtaining a **commercial real estate broker lien** against the property being sold or leased. [ See pages 770-2 of the **2013-14 NC Real Estate Manual.**]

**b. General Liens**

- (1) Judgment Liens
- (2) Personal Property Tax Liens
- (3) State Tax Liens
- (4) Federal Tax Liens

**c. Lien Priority**

**d. Homestead Exemption from Lien Enforcement -- NC Constitution, Article X and G.S. 1C-1601** *[Level 1 – this subtopic]*

**e. Writ of Attachment** *Level 1 – this subtopic]*

2. **Lis Pendens** (Notice of Pending Litigation)
3. **Restrictive Covenants** [*Mention only; cover in depth under "Land Use Controls".*]
4. **Easements**
  - a. General Categories of Easements; Characteristics and Examples
    - (1) Easements Generally
      - (a) Non-possessory interest in real estate
      - (b) Dominant and servient estates
    - (2) Appurtenant Easements
      - (a) Definition
      - (b) Appurtenance to both dominant and servient estate
    - (3) Easements in Gross
      - (a) Definition
      - (b) No dominant estate
      - (c) Personal easement in gross [*Distinguish from a "license," which is not an encumbrance.*]
      - (d) Commercial easement in gross
  - b. Creation of Easements (types by method of creation)
    - (1) Express
    - (2) Implied
    - (3) Arising by Operation of Law
  - c. Recordation of Easements – An easement must be recorded to be binding against a purchaser of the servient estate.
  - d. Termination of Easements
  - e. Effect of Change in Ownership of Dominant or Servient Estate
  - f. Party Wall (Cross Easements)
5. **Encroachments**
  - a. Examples
  - b. How Detected
  - c. Remedies

### **III. PROPERTY TAXATION AND ASSESSMENT [1.5 hours]**

#### **A. Ad Valorem Property Tax** [*Level 2 except as noted below*]

1. **Tax Rate and Calculations** [*Level 3 for Tax Calculations*]
  - a. NC rate expressed as \$xxx per \$100 of assessed value

- b. Many other states express the tax rate as a “mill rate.” A mill is 1/10<sup>th</sup> of a cent. A mill rate is described as “mills per dollar.” [A NC tax rate of \$1.50 per \$100 (which is \$0.015 per dollar) is the same as a mill rate of 15 mills per dollar.]

***Note:** Either of the above rates may be cited in license examination “national” section questions and students must be able to perform calculations using either rate.*

2. **Property Subject to Taxation**

3. **Listing Property for Taxation**

4. **Appraisal and Assessment**

***Note:** NC law states that the “assessed value” of real property for property taxation purposes in NC must, with a few exceptions, be its “market value” (“...its true value in money”) at the time of assessment. However, in other states, the assessed value for property taxation purposes may be a value that is less than market value – for example, it might be 50% of market value. License examination “national” section questions might, therefore, mention an assessed value that is less than market value and these questions should be answered based on the given information about assessed value rather than on the NC practice. Also, should the term “true market value” be encountered on the license examination, the term should be assumed to mean “market value.”*

5. **Timetable for Listing and Tax Collection**

6. **Property Tax Lien**

7. **Special Priority of Tax Liens**

**B. Special Assessments [Level 2]**

1. By Counties
2. By Cities and Towns
3. Special Assessment Liens

**IV. TRANSFER OF TITLE TO REAL PROPERTY [2.0 hours]**

**A. Property Description [Level 2]**

1. **Adequacy of Descriptions**
2. **Methods of Describing Real Estate**
  - a. Metes and Bounds

- b. Government (Rectangular) Survey System [*Note that this topic must be taught even though this system is not used in NC because it is used in a majority of states and will be tested on the license examination. Recommended maximum class time: 1 hour.*]
- c. Reference to Recorded Plat (Lot and Block)
- d. Informal Reference (e.g., street address)
- e. Reference to Publicly Recorded Documents

### 3. Property Survey

**Note on teaching “Area and Related Calculations”:** *The syllabus calls for teaching the topic of “Area and Related Calculations” under “Selected Issues Related to Listing Practices” in the section on “Agency Contracts (Sales) and Related Practices” and the recommended time allocations envision coverage at that point. However, instructors may, at their discretion, cover “Area and Related Calculations” at this point in the course. If that is done, approximately 1-1½ hour should be added to the time recommendation for “Transfer of Title to Real Property” and deducted from the time recommendation for “Agency Contracts (Sales) and Related Practices.” Instructors should assign practice problems as homework in order to make the most effective use of limited class time.*

#### **B. Methods of Transferring Title** [*Level 1 except as noted below*]

- 1. By Descent (Intestate Succession – No will)
- 2. By Will [**Note:** *Formerly, the term “devise” referred to a **real** property transfer and “bequest” referred to a **personal** property transfer. Now, “devise” applies to both in NC, **but both terms may still be encountered on the “National” section of the license exam.***]
- 3. By Voluntary Alienation (Deed) [*Deeds covered separately below*]
- 4. By Involuntary Alienation
  - a. Lien Foreclosure Sale [*Covered under “Real Estate Financing”*]
  - b. Adverse Possession [*Level 2 – this subtopic*]
    - (1) General Requirements
    - (2) Statutory Time Periods for Continuous Adverse Possession**Note:** *Students should be able to recognize potential adverse possession situations based on given facts about the possession/use of a property by one who is not the owner of record.*
  - c. Escheat
  - d. Eminent Domain (Condemnation) [*Level 2 – this subtopic*]
    - (1) Basic Procedures
    - (2) Effect of condemnation on a leasehold estate held by a tenant on the condemned property (or some portion thereof).

**C. Deeds** *[Level 2 except as noted below.]*

1. **Essential Elements of a Valid Deed**
2. **Types of Deeds** (Purposes and characteristics of each)
  - a. Types Most Commonly Used in North Carolina and many other states *[Use sample deed forms for illustration if samples are not included in text.]*
    - (1) General Warranty Deed (sometimes referred to in other states as a “Full Covenant and Warranty Deed” or just “Warranty Deed”)
    - (2) Special Warranty Deed
    - (3) Quitclaim Deed
  - b. Bargain and Sale Deed – Used in some states. Very similar to a “Quitclaim Deed.” *[Level 1 – this subtopic]*
  - c. Special Purpose Deeds *[Level 1 – this subtopic]*
3. **NC Excise Tax** (formerly called Revenue Stamps) on Property Transfers
  - a. Excise Tax Rate
  - b. Calculations *[Level 3 - this subtopic]*
4. **Transfer Tax** (local tax imposed by some counties)

**D. Title Assurance** *[Level 1 except as noted below]*

1. **Title Examination**
  - a. Public Records Search (by attorney or assistant in NC; by title company staff in many other states)
  - b. Chain of Title
  - c. Abstract of Title
  - d. Opinion on Title (by attorney in NC)
2. **Title Insurance**
  - a. Purpose
  - b. Types of Policies (Owner's and Mortgagee's)
  - c. Basic Policy Coverage
  - d. Cost and Procurement
3. **Title Recordation** *[Level 2 - this subtopic]*
  - a. Purpose
  - b. The Conner Act
  - c. Documents Required to be Recorded
  - d. Recording Contracts
  - e. Recordation Procedures (Register of Deeds office in NC)

*Note that recordation of lien satisfaction (e.g., mortgage payoff) is needed to clear a title from being encumbered by the lien.*

4. **Covenants of Title in Deeds** [*Mention only - covered under “Deeds.”*]
5. **Marketable Title Act and Torrens System**
6. **Resolution of title disputes** (e.g., due to adverse possession claim or some other conflict) is by lawsuit called an “Action to Quiet Title.”

## **V. LAND USE CONTROLS [2.0 hours]**

### **A. Public Land Use Controls** [*Level 2 except as noted below*]

1. **Zoning** [*Use copies of actual local zoning ordinances, zoning maps, classification charts and tables of permitted uses for illustration.*]
  - a. Historical Development
  - b. Statutory Authority for Governmental Zoning (NC)
  - c. Zoning Purposes and General Guidelines
  - d. Zoning Districts (and Codes)
  - e. Zoning Ordinances, Systems (Districts and Codes) and Administration
  - f. Zoning Concepts, Terminology and Special Procedures
    - (1) Nonconforming use
    - (2) Illegal use
    - (3) Zoning amendments
    - (4) Variance
    - (5) Special use permit (or special exception)
    - (6) Overlay district
    - (7) Historic preservation zoning
    - (8) Aesthetic zoning
    - (9) Spot zoning
    - (10) Cluster zoning
    - (11) Buffer zone
2. **Urban and Regional Use Planning** [*Level 1 - this subtopic*]
3. **Subdivision Statutes and Regulations**
  - a. Definition of Subdivision (NC)
  - b. Typical Subdivision Approval Procedures (NC and elsewhere)
  - c. Criminal Penalty for Selling Lots in Unapproved Subdivision [*G.S. 153A-330 et seq*] (NC)
  - d. Subdivision Streets Disclosure Law [*G.S. 136-102.6*] (NC)

*Note: Instructors should obtain a copy of the above cited statutory provision (available online under NC General Statutes) to use in teaching this topic.*

4. **Building Codes (NC)** *[Level 1 - this subtopic]*
  - a. Enforcement Authority (usually local building inspector)
  - b. Building Permit (including for additions/renovations)
  - c. Certificate of Occupancy
5. **Highway Access Restrictions** *[Level 1 - this subtopic]*
6. **Interstate Land Sales Full Disclosure Act** *[Level 1 - this subtopic]*
7. **Flood Hazard Area Regulations**
  - a. FEMA Administration/Maps
  - b. Requirement for Flood Insurance through National Flood Insurance Program
8. **Government Ownership** (Examples: National/State/Municipal Parks; Land acquired for preservation of natural resources) *[Level 1 – this subtopic]*

**B. Privately-Imposed Land Use Controls (Subdivision Restrictive/Protective Covenants)** *[Level 2. Use typical set of subdivision covenants for illustration if none is available in text.]*

1. Purpose
2. Typical Matters Addressed
3. Covenants “Run With the Land”
4. Enforcement
5. When covenants differ from zoning regulations on a particular matter, the more restrictive of the two will control.

**C. Licensees' Responsibilities Regarding Recognition of Potential Land Use Problems and Verification of Land Use** *[Level 3]*

*Under the Real Estate License Law, a licensee has a duty to avoid any misrepresentation regarding permitted land use, to recognize potential land use problems, and to discover and disclose any such problems.*

1. An agent must avoid any representation about a property's zoning or permitted land uses without checking the property's zoning and, if appropriate, flood hazard area maps and any restrictive covenants affecting the property.



2. An agent is expected to be able to recognize “red flag” situations regarding land use issues and to verify permitted land uses and/or advise the party involved of the potential problem and recommend that the party verify the permitted land uses. *Recognizing and taking appropriate action with regard to potential problems with restrictive covenants is particularly important.*
3. An agent is expected to be able to recognize patent signs of flooding on a property or when a property’s location may make it susceptible to flooding (e.g., location on a river or creek), and should assist the party involved in checking flood hazard area maps (FEMA maps) or checking with the local planning office to determine if there is any potential flooding problem.
4. An agent is expected to be aware of planned major highway changes in the area where the agent works and to disclose such information when appropriate.

## **VI. ENVIRONMENTAL ISSUES IN REAL ESTATE [0.5 hours]**

### **A. General Discussion of Significance of Environmental Issues for Real Estate Agents [Level 1]**

**Note:** *The presence on a property of any of the environmental hazards covered below is a material fact that must be disclosed to prospective purchasers or lessees.*

### **B. Selected Specific Hazards Pertinent to Real Estate Brokerage and Relevant Laws and Regulations [Level 1 except as noted below]**

1. **Lead Poisoning [Level 2 – this subtopic only]**
  - a. Lead-based paint. Residential use banned in 1978. Disclosure required by federal law since 1992 (see d. below).
  - b. Lead dust (e.g., accumulated in water passing through lead plumbing) or lead in soil.
  - c. Serious health risk, especially to children.
  - d. **Residential Lead-Based Paint Hazard Reduction Act of 1992** and implementing HUD and EPA rules.
    - (1) Disclosure requirement
    - (2) Application – “target” housing
    - (3) Agents’ responsibilities (under federal rules and the Real Estate License Law)
    - (4) Enforcement and penalties

- e. N.C. Lead-Based Paint Hazard Management Program. Inspectors and firms/individuals performing renovation, repair and painting projects for compensation in homes and day-care facilities built before 1978 must be certified. Fines for violations up to \$750 per day.
- 2. **Asbestos**
    - a. Widely used in insulation prior to ban in 1978.
    - b. Characteristics
    - c. Serious health risk
    - d. Remediation
  - 3. **Radon**
    - a. Characteristics and where found
    - b. Health risk
    - c. Remediation
  - 4. **Formaldehyde**
    - a. Characteristics
    - b. Found in pressed-wood products (particle board, some plywood paneling, some fiberboard, etc) and in urea formaldehyde foam insulation (UFFI).
    - c. Health risk
    - d. Remediation
  - 5. **Toxic Mold**
    - a. Characteristics and where found
    - b. Health risk
    - c. Potential problems with homeowner's insurance
    - d. Remediation
  - 6. **Petroleum leaking from underground petroleum storage tanks** — regulated by **N.C. Leaking Petroleum Underground Storage Tank Cleanup Act**. Note that an owner of a property with a problematic underground storage tank may be liable for cleanup even if it was a previous owner who installed the tank or failed to properly maintain it.
  - 7. **Hazardous substances** (chemicals, wastes, etc. — regulated by **Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)**, a federal law. Note that an owner of a property with hazardous waste present may be liable for cleanup even if the pollution was caused by a previous owner.

## **VII. BROKERAGE RELATIONSHIPS: LAW AND PRACTICE** **[6.0 hours]**

***Note:** This critical subject area should be covered thoroughly in class. Instructors should use the Commission's **North Carolina Real Estate Manual** as his/her primary information source for teaching this subject area. Emphasis should be placed on the Real Estate Commission's rule on "Agency Agreements and Disclosure." [Rule 58A.0104]. Portions of this rule should be covered here and portions should be covered in the subsequent section on "Agency Contracts and Related Practices." Note also that G.S. 93A-6(a)(1) on "Misrepresentation and Omission" as well as G.S. 93A-6(a)(4)&(6) dealing with "Conflicts of Interest" should be covered in depth here rather than in the subsequent section on "License Law, Commission Rules and Trust Account Guidelines."*

### **A. Overview of Laws and Regulations Governing Brokerage Relationships** *[Level 1]*

### **B. Law of Agency — Basic Concepts** *[Levels as noted below.]*

1. **Basic Agency Terms** (Agency, Principal, Agent, Subagent, Third Party)  
*[Level 2]*
2. **The Real Estate Agent's "Fiduciary" Role**
3. **Classifications of Agency Relationships** *[Level 2]*
  - a. Universal Agency
  - b. General Agency
  - c. Special Agency
4. **Methods of Creating Real Estate Agency Relationships** *[Level 2]*
  - a. Relationships between Brokers/Firms and Transaction Parties (Formed by Agency Contracts) *[Mention only at this point; cover these contracts in depth in section on "Agency Contracts and Related Practices."]*
    - (1) Listing Contract
    - (2) Buyer Agency Contract
    - (3) Dual Agency Contract
    - (4) Property Management Contract
    - (5) Tenant Representation Contract
  - b. Relationships between Brokers/Firms *[Note: Mention only here. These contracts are covered in more depth under "Agency Contracts (Sales) and Related Practices."]*
    - (1) In-House Brokerage Employment Contracts
    - (2) Cooperation Agreements between Brokers/Firms

- c. By Conduct of Parties (Implied Agency) – For example, cooperation between firms based on agents’ actual conduct and custom rather than an explicit agreement.
- 5. **Scope of Agent’s Authority** *[Level 2]*
  - a. Express Authority
  - b. Implied Authority
  - c. Apparent Authority

### **C. Real Estate Agency Relationships** *[Level 3]*

- 1. **The Basic Agency Relationship**
  - a. Consumer Employs Broker-Sole Practitioner
  - b. Consumer Employs a Real Estate Firm
- 2. **Agency Relationships in Real Estate Sales** (Relationships of Parties; Advantages and Disadvantages of Various Options)
  - a. Exclusive Seller Agency
  - b. Exclusive Buyer Agency
  - c. When Firms/Brokers Cooperate on a Sale
  - d. Both Seller and Buyer Agency with Dual Agency for In-House Sales *[G.S. 93A-6(a)(4) & (5); Commission Rule 58A.0104(d) and (i) - (n)]*
    - (1) Unintentional, undisclosed dual agency prohibited
    - (2) Intentional, disclosed dual agency
    - (3) Dual agency with designated agents

***Note:** Dual agency should only be introduced at this point and covered in depth later in this section.*

- 3. **Agency Relationships in Real Estate Rentals** (Overview of Typical Agency Relationships When Licensees Handle Residential and Commercial Rentals)
- 4. **Disclosure of Agency Relationships** *[G.S. 93A-6(a)(4) and (5); Commission Rule 58A.0104 (c), (d), (e), (f), (g) and (h).]*

***Note:** Instructors may want to also review briefly paragraphs (a) and (b) of Rule 58A.0104 regarding **agency agreements** at this point to give students the big picture, then reserve detailed discussion of these agency agreements provisions for the section on “Agency Contracts and Related Practices.” A review at this point might help students better understand the “Working with Real Agents” brochure and how to properly review that brochure with consumers.*

- a. Requirement to Provide the Commission's "**Working with Real Estate Agents**" Brochure to Every Prospective Buyer or Seller at First Substantial Contact and to Determine Agency Relationship with that Party. [Paragraph (c) of Rule A.0104; brochure is available on Commission's website at [www.ncrec.gov](http://www.ncrec.gov).]
  - (1) **Review** of the entire brochure with prospect is mandatory! Merely providing the brochure is insufficient!
  - (2) Completion of acknowledgment section of brochure (incl. how to handle situation when prospect refuses to sign brochure)
- b. Disclosure of Agency Status by Seller's Agent or Subagent to Prospective Buyer [Paragraph (e) of Rule A.0104]
  - (1) At "first substantial contact" and in writing (with a limited exception)
  - (2) Examples of "first substantial contact" in various situations
  - (3) Use of "Disclosure of Seller Subagency" portion of the acknowledgment on the Commission's "**Working with Real Estate Agents**" brochure
- c. Disclosure of Agency Status by Buyer's Agent to Seller or Seller's Agent at Initial Contact [Paragraph (f) of Rule A.0104]
- d. Disclosure of and Consent to Proposed Dual Agency [G.S. 93A-6(a)(4) and (5); Paragraphs (d) and (i) of Rule A.0104]
- e. Disclosure in Auction Sales Situations

**D. Agent's Duties to Principal [Level 3]**

- 1. Agent's Duties to Principal under the **Law of Agency**  
*Note: It is extremely important to use "real life" examples to illustrate each duty.*
  - a. Loyalty and obedience (Note potential problems involved with "self-dealing" and "conflict of interest" situations.)
  - b. Skill, care and diligence
  - c. Disclosure (and Nondisclosure) of Information
  - d. Accounting
- 2. Termination of Agency Relationship
  - a. How relationship may be terminated
  - b. Agent's duties to principal end (as a general rule)
- 3. Agent's Duties to Principal under the **Real Estate License Law and Commission Rules**  
*Note: Although these provisions of the License Law and Rules will be covered at various other points in the course, make students aware at this point of the substantial overlap of these "duties" with those imposed under the Law of Agency and mention that many of the duties owed to a principal under the License Law*

*and Commission Rules are also owed to a third party.*

- a. Duty to avoid any willful or negligent misrepresentation of a material fact to the principal, and to disclose to the principal all material facts about which the agent has knowledge or should reasonably have acquired knowledge. [G.S. 93A-6(a)(1) and (3)]
- b. Duty to avoid making any false promises to the principal. [G.S. 93A-6(a)(2) and (3)]
- c. Duty to avoid any undisclosed conflict of interest. [G.S. 93A-6(a)(4); Rule A.0104(d)-(f), (i) and (j)]
- d. Duty to properly account for funds held in trust for the principal. [G.S. 93A-6(a)(7), (12) and (14); Rule A.0107]
- e. Duty to act competently in the performance of services required by the agency relationship. [G.S. 93A-6(a)(8); various rules]
- f. Duty to avoid improper conduct and to be honest in all dealings with the principal (as well as in dealings with other parties). [G.S. 93A-6(a)(10)]
- g. Duty to deliver all offers and contracts to the principal. [G.S. 93A-6(a)(13); Rule A.0106]
- h. Duty to disclose any commissions, referral fees, kickbacks and similar payments from third parties. [Rule A.0109]

**E. Agent's Duties to Third Persons under the Real Estate License Law and Caselaw [Level 3]**

***Note:** This topic involves a study of an agent's duties to third persons **under the Real Estate License Law and caselaw**. Emphasis should be placed on conveying a proper understanding of misrepresentation and omission, and especially the duty to discover and disclose material facts. Instructors should use appropriate common fact situations for illustration and invite substantial student participation.*

1. **Duty to avoid any willful or negligent misrepresentation of a material fact to a third party and to disclose to the third party all material facts relating to the property about which the agent has knowledge or should reasonably have acquired knowledge.** [G.S. 93A-6(a)(1) and (3) and caselaw]

*Use different fact situations to illustrate potential problems involving misrepresentation and omission and how to avoid them. Refer to the "License Law and Rules Comments" in the Commission's "License Law" booklet for additional explanations and examples concerning Willful Misrepresentation, Negligent Misrepresentation, Willful Omission and Negligent Omission. Special emphasis should be placed on the duty of a listing agent to present all information about a property*

*accurately and to discover and disclose all material facts. Be sure to also emphasize that the duty to disclose material facts to a third person applies to a buyer's agent working with a seller or seller's agent as well as to a seller's agent working with a buyer or buyer's agent.*

- a. Willful Misrepresentation
- b. Negligent Misrepresentation
- c. Willful Omission
- d. Negligent Omission *[Explain how the prohibition against negligent omissions gives rise to the “duty to discover and disclose material facts.”]*

**Note – Very Important:** *Explain the difference in the standard for determining what is a “material fact” when disclosing information to a principal versus a third party.*

- 2. **General duty to treat any party honestly and fairly and to avoid conduct that constitutes improper, fraudulent or dishonest dealing.** *[caselaw and G.S. 93A-6(a)(10).]*
- 3. **Other duties arising from the License Law and Commission Rules**

**Note:** *The following “duties” of an agent to third persons arise from the License Law and Commission Rules. Although these provisions will be covered elsewhere in the course, it would enhance student understanding of how the License Law and rules overlap with the law of agency to review these at this point.*

- a. Duty to avoid making any false promises to a third party. *[G.S. 93A-6(a)(2) and (3)]*
- b. Duty to properly account for any funds belonging to others which come into the agent’s possession. *[G.S. 93A-6(a)(7), (12) and (14); Rule A.0107]*
- c. General duty to act competently in handling real estate transactions. *[G.S. 93A-6(a)(8); various rules]*
- d. Duty to deliver principal’s offers and contracts involving principal to affected third parties. *[G.S. 93A-6(a)(13); Rule A.0106]*
- e. Duty to disclose to third parties for whom services are recommended or procured any referral fees or kickbacks received for such recommendation or procurement. *[Rule A.0109]*

**F. Other Laws Governing the Disclosure of Information in Real Estate Transactions** *[Level 3 except as noted below]*

- 1. **Stigmatized/Psychologically Impacted Properties –**

**Death, Illness or Conviction of Certain Crimes NOT a Material Fact**  
[G.S. 39-50; 42-14.2]

- a. Property was occupied previously by a person who died or had a serious illness while occupying the property.
- b. Fact that a sex offender required to register with law enforcement authorities occupies, occupied, or resides near a property.

2. **Unfair or Deceptive Trade Practices Act** [G.S. 75-1.1][*Level 1 – this subtopic*]

- a. Applies to real estate agents
- b. Possibility of treble damages

3. **Sellers' and Buyers' Responsibilities under the Common Law**

- a. Doctrine of *caveat emptor*
- b. Fraud or misrepresentation by seller
- c. Agent's responsibilities under Real Estate License Law not affected by doctrine of *caveat emptor*

4. **Residential Property Disclosure Act**

- a. Requirement for seller to provide disclosure form
- b. Applicability of and exemptions to the law
- c. Real estate agents' responsibilities to advise seller of disclosure requirement and assure timely delivery of disclosure form [*Note that agent should NOT complete the form for the seller.*]
- d. Review of *Residential Property and Owners' Association Disclosure Statement* form [*The text of the form is included in Commission Rule 58A.0114; form is also available on Commission website at [www.ncrec.gov](http://www.ncrec.gov).*]

5. **Sale of Property "As Is"**

6. **Residential Lead-based Paint Hazard Reduction Act** (and implementing HUD and EPA rules) [*Note: Included here as a reminder. Topic should have been covered in depth under the section on "Environmental Hazards, Laws and Regulations."*]

**G. Liabilities and Consequences of Agent's Breach of Duties** [Level 3]

- 1. Disciplinary Action by Real Estate Commission Against Agent
- 2. Civil Liability of Agent
- 3. Criminal Liability of Agent
- 4. Civil Liability of Principal (for Agent's Misconduct)



**H. Dual Agency** *[Level 3. Note: Instructors, at their option, may elect to defer coverage of dual agency until the end of the subsequent section on “Agency Contracts (Sales) and Related Practices,” given the important role agency contract provisions regarding dual agency play in modern dual agency practice in North Carolina. If covered at this point, instructors will need to include coverage here of the relevant dual agency provisions in agency contracts.]*

**1. Dual Agency Basics**

- a. Inherent potential conflict of interest – major practical problem centers around agent’s common law duty to disclose all material facts to his/her principal.
- b. Unintentional, undisclosed dual agency
- c. Intentional, disclosed dual agency
  - (1) Informed, written consent of both principals required [G.S. 93A-6(a)(4) and Commission Rule 58A.0104]

**2. Current Approaches to Handling Dual Agency in North Carolina**

- a. Limiting dual agent’s duties by contract *[See the North Carolina Association of REALTORS® standard forms #101 Exclusive Right to Sell Listing Agreement and #201 Exclusive Buyer Agency Agreement.]*
  - (1) Limiting disclosure of certain information to principals
  - (2) Limiting the duties of loyalty and skill, care and diligence
  - (3) Effect is to eliminate agent’s role as an “advocate” for either client
- b. Designated agency *[Commission Rule 58A.0104(i)-(n)]*
  - (1) Concept
  - (2) Duties of a designated agent
  - (3) Other provisions of rule
  - (4) Practical considerations with practicing dual agency
- c. Individual broker dual agent under *Commission Rule 58A.0104(n)*

**I. Duties and Liabilities of Principals** *[Level 3]*

- 1. Principal’s Duties to Agent
  - a. Good Faith
  - b. Compensation
- 2. Principal’s Duties to Third Persons
- 3. Liabilities and Consequences of Principal’s Breach of Duties
  - a. Criminal Liability in Some Cases
  - b. Civil Liability

## **VIII. AGENCY CONTRACTS (SALES) AND RELATED PRACTICES**

**[6.0 hours]**

### **A. Earning a Real Estate Brokerage Fee (Sales) [Level 3]**

#### **1. Earning a Fee as a Listing Broker**

- a. Legal Requirements for Establishing Claim to a Fee
  - (1) License in Good Standing
  - (2) Valid Listing Contract
  - (3) Procurement of "Ready, Willing and Able Buyer"
- b. Sharing of the Listing Broker's Fee
  - (1) The "In-House" Sale
  - (2) The Co-brokered Sale [*Note: MLS arrangements to be discussed in detail later in this section.*]
  - (3) Co-brokerage with Broker Licensed in Another State

#### **2. Earning a Fee as a Buyer's Broker**

- a. "Retainer Fee" and "Success Fee"
- b. Sharing in the Listing Broker's Fee

### **B. General Requirements for Agency Contracts (Sales and Rental Transactions) [Level 3]**

#### **1. Requirement for Written Agreement [Rule A.0104(a)]**

- a. Basic requirement
- b. Exception permitting oral buyer or tenant agency contracts for a limited period of time [*Mention here. Note that **oral buyer agency** is covered in depth subsequently under "Working with Buyers."*]

#### **2. Other Requirements for Written Agency Contracts**

- a. Employment of Broker/Firm Must Be for a Stated Definite Period of Time
- b. Agreement Must Contain Prescribed Nondiscriminatory Language

### **C. Listing Contracts [Level 3]**

#### **1. Types of Listing Contracts [Detailed coverage follows this introduction to the basic types.]**

- a. "Full Service" Listing Contracts [*Note the characteristics that make the three types different.*]
  - (1) Open
  - (2) Exclusive Agency
  - (3) Exclusive Right to Sell
- b. "Limited Service" Listing Contracts
- c. "Protection Agreements"

2. **Typical Full Service Listing Contract Provisions and Practice Preparation of Listing Contracts** *[Use the North Carolina Association of REALTORS® “Exclusive Right to Sell Listing Agreement” form for illustration.]*
  - a. Property Description (including fixtures and personal property)
  - b. Listing Price and Terms of Sale
  - c. Term of Agreement
  - d. Cooperation with and Compensation to Other Firms
  - e. Firm's Compensation (including “protection period” provision)  
***Note:** Include discussion of various types of brokerage fees and how they are calculated.*
    - (1) Percentage of Sale Price (Commission)
    - (2) Flat Fee
    - (3) Net Listing
  - f. Firm's Duties
  - g. Seller's Representations and Duties
  - h. Dual/Designated Agency Authorization
  - i. Earnest Money
  - j. Names and Signatures of Parties
3. **Limited Service Listing Contracts**
  - a. Services commonly provided and typical provisions
  - b. Limits “services” but not “duties,” especially duties under the Real Estate License Law and Commission Rules
  - c. Typical fee arrangements
4. **“Protection Agreement”**
  - a. Purpose – agreement with seller for a single transaction, usually when dealing with a “FSBO” situation
  - b. See NCAR “Unrepresented Seller Disclosure and Fee Arrangement” standard form 150
5. **“Co-listing” by More than One Broker/Firm**
6. **Termination of Listing Contracts** *[See “Discharge of Contracts” under “Basic Contract Law.”]*

**D. Cooperation Among Brokers** *[Level 3 except as noted below]*

1. **Multiple or Cooperative Listing Services** *[Use sample MLS computer print-out for illustration of how the MLS lists properties.]*
  - a. Basic Operations
  - b. Broker Relationships in MLS/CLS
  - c. Advantage of an MLS/CLS

2. **Antitrust Law** *[Level 2 - this subtopic]*
  - a. Price fixing (any broker collaboration in setting fees)
  - b. Boycotting (Examples: (1) Any group of brokers joining to boycott certain service providers, such as certain appraisers, attorneys, home inspectors, etc. (2) An MLS excluding certain categories of brokers, such as limited service listing brokers, from membership.)

**E. Laws Affecting Solicitation of Clients/Customers**

1. **Solicitation of Active Clients of Other Firms/Brokers**
  - a. Violates the Code of Ethics of the National Association of REALTORS® (which governs members of that association)
  - b. May constitute “tortious interference with contractual relations,” which may be a basis for a civil lawsuit.
2. **Do Not Call Laws/Rules** (Federal and NC)
  - a. Basic restriction – the Do Not Call Registry
  - b. Primary exemptions
    - (1) Express permission or invitation
    - (2) Established business relationship (Note 18-month limit)
    - (3) Personal relationship
  - c. Penalties
3. **“Junk Fax” Laws/Rules**
  - a. Restricts unsolicited fax transmissions without recipient’s permission
  - b. Requires prominent “opt out” notice on fax cover sheet
  - c. Business relationship exemption (no time limit)
4. **“CAN-SPAM Act”**
  - a. Restricts “spamming” by email
  - b. “Opt out” option required
  - c. Minor effect on real estate brokerage practices

**F. Listing Practices (Working with Sellers)** *[Level 3 – Instructor is referred to coverage of “Working with Sellers” in Chapter 9 of the North Carolina Real Estate Manual for coverage of any subtopic that is not adequately addressed in the preclicensing text. Address here those issues that are not addressed elsewhere in the outline.]*

1. **Prelisting Activities** – Gather documents needed for prelisting meeting and advise seller to gather the following information:  
*[Instructor Note: Explain reasons for gathering each piece of information.]*

- a. Copy of Seller's Deed
- b. Copy of Survey (if available)
- c. Copy of Protective Covenants, Homeowners' Association Information (including dues and assessments)
- d. Balance Due on Seller's Mortgage(s) and Status of Mortgage(s)

2. **Prelisting Meeting**

- a. Agency Disclosure. Explain agency brochure (covered previously under "Brokerage Relationships") and company policies/services
- b. Inspect prospective seller's property and prepare listing data sheet.
  - (1) Note all significant features *and defects*.
  - (2) Identify personal property to be sold and fixtures not to be sold.
  - (3) Suggest needed repairs, improvements, staging, etc.
  - (4) Make sure listing data is accurate and complete.
- c. Inquire as to construction/alteration/repair permits.
- d. Inquire as to septic system capacity (if property has septic system).
- e. Discuss marketing plan and brokerage fee.
- f. Determine if a potential "short sale" situation exists.
- g. Verify acreage of lot/parcel from seller's deed and/or survey.
- h. Verify and properly report building square footage. *[See separate instructor note below]*

***Important Instructor Notes:***

**Teaching Area and Related Calculations.** Determining square footage (for all types of structures), verifying the area (acreage, square footage) of lots/parcels of land and determining the volume (cubic feet) of buildings.

*The syllabus calls for teaching the topic of "Area and Related Calculations" at this point and the recommended time allocation for "Agency Contracts (Sales) and Related Practices" envisions coverage at this point. However, instructors may, at their discretion, cover "Area and Related Calculations" under "Transfer of Title to Real Property" earlier in the course. If that is done, approximately 1-1½ hour should be added to the time recommendation for "Transfer of Title to Real Property" and deducted from the time recommendation for "Agency Contracts (Sales) and Related Practices." Instructors should assign practice problems as homework in order to make the most effective use of limited class time.*

- a. Conversion of acreage to square footage and vice-versa.
- b. Square footage of variously shaped buildings and parcels of land with straight-line sides. (Involves application of formulas for calculating the area of squares, rectangles, trapezoids and right triangles.)

- c. Square yards
- d. Volume (cubic feet)
- e. Cost/price per square foot/acre/square yard/cubic foot/front foot
- f. Acreage of a portion of a section of land (Government Survey System)

**Teaching the Residential Square Footage Guidelines.** *[Thoroughly review at this point the North Carolina Real Estate Commission's Residential Square Footage Guidelines. Recommend approximately 1½ hours of class time. Assign practice problems as mandatory homework.]*

- a. Terminology
- b. Living Area Criteria – Note especially the treatment of stairs, rooms with low, sloped ceilings and rooms that are open from the floor of one level to the ceiling of the next higher level.
- c. Measuring and calculating square footage
- d. Broker's responsibility

3. **Determining an Appropriate Listing Price**

- a. **Performing a Comparative Market Analysis** – Critical first step! *[Mention only here; cover in depth subsequently under "Real Property Valuation."]*
- b. **Calculating the Sale Price Needed to Net "X" Amount to Seller OR Estimating Net to Seller with Various Sale Prices** *[Assign math practice problems; students traditionally have difficulty with this on the license exam.]*
- c. **Calculating Net Profit/Loss to Seller on Sale** *[Assign practice problems.]*
- d. **Review with Seller all Factors that Should Be Considered**

4. **Complete Listing Contract Form**

**Note:** *Listing price must be determined before seller signs listing contract!*

- 5. Comply with **North Carolina Residential Property Disclosure Act** if applicable *[Mention only – Covered in depth previously in section on "Brokerage Relationships"]*
- 6. Comply with **Residential Lead-Based Paint Hazard Reduction Act** if applicable *[Mention only – Covered in depth previously in section on "Environmental Hazards, Laws and Regulations"]*
- 7. **Market listed property** per contract and customary marketing practices.

**G. Buyer Agency Contracts [Level 3]**

1. **Types of Buyer Agency Contracts**
  - a. Nonexclusive
  - b. Exclusive
2. **Typical Provisions and Practice Preparation of Buyer Agency Contracts** *[Use North Carolina Association of REALTORS® standard buyer agency agreement forms 201 and 203.]*
3. **Termination** *[See “Discharge of Contracts” under “Basic Contract Law.”]*

**H. Working with Buyers [Level 3]**

*[Instructor Note: See the coverage of “Working with Buyers” in the “Agency Contracts and Related Practices” chapter of the Commission’s NC Real Estate Manual for coverage of any subtopic not adequately covered in prelicensing text. Cover in depth here those topics not addressed elsewhere in course.]*

1. **Providing and Reviewing Commission’s Agency Brochure; Determining and Explaining Agency Relationship; Creating the Agency Relationship (Obtaining an Agreement)**
  - a. Working with Buyers as a Seller’s Subagent
  - b. Working with Buyers as a Buyer’s Agent
    - (1) Option of Acting under an Oral Buyer Agency Agreement When Permitted
    - (2) Exclusive vs. Nonexclusive Agreement?
    - (3) Option of Limiting Duration of an Exclusive Agreement
    - (4) Option of Limiting Exclusive Agreement to Specific Properties
  - c. Switching from a Seller’s Subagent to a Buyer’s Agent
  - d. Working with an Unrepresented Seller (e.g., FSBO) as a Buyer’s Agent
2. **Prequalifying the Buyer** (Preferable approach is to have buyer prequalified by a mortgage loan officer.) *[Note that qualification of buyers using expense to income formulas utilized by lenders is covered in depth subsequently under “Real Estate Financing.”]*
3. **Selecting Properties for Showing**
  - a. Consider buyer’s desires and financial qualifications
  - b. Comply with Fair Housing laws
  - c. Do not limit selections to properties listed by the agent’s firm and do not exclude from consideration properties listed by a limited services broker!

4. **Scheduling Properties for Showing**
  - a. Disclose agency status to listing agent (or seller if a FSBO).
  - b. Request compensation by seller if applicable.
5. **Showing Properties**
6. **Discovering and Disclosing Material Facts to Buyer** *[Brief reminder here. Covered previously under “Brokerage Relationships.”]*
7. **Obtaining or Verifying Information for Buyer** (e.g., Property Disclosure Statement, HOA info, protective covenants, other info requested by buyer)
8. **Performing a CMA** (to assist buyer in determining an appropriate offer price) *[How to perform a CMA is covered in depth subsequently under “Real Property Valuation.”]*
9. **Assisting Buyer with Preparation of Offers; Presenting and Negotiating Offers** *[Mention only here; cover in depth under “Sales Contract Procedures” in next section.]*
10. **Assisting the Buyer with Preparations for Closing** *[Mention only here – Cover in depth subsequently under “Closing Procedures.”]*

**I. Broker/Firm Employment Contracts with Affiliated Licensees** *[Level 2]*

1. Typical Provisions
  2. “Employee” vs. “Independent Contractor” under IRS Rules
- Note:** *Instructors should address how various requirements imposed on affiliated licensees by an employing broker/firm can affect the tax status/obligations of both the affiliated licensee and the employing broker/firm. Use examples.*

**IX. BASIC CONTRACT LAW [1.75 hours]**

**A. Basic Contract Concepts, Terminology and Classifications** *[Level 2]*

1. Definition of a Contract
2. Express/Implied
3. Bilateral/Unilateral
4. Executed/Executory
5. Valid (Enforceable)/Void (Unenforceable)/Voidable



**B. Essential Elements of a Contract** *[Level 2 except for "Offer and Acceptance," which is Level 3.]*

***Note:** It is strongly recommended that instructors briefly review the basic concept of offer and acceptance at this point and then devote more in-depth coverage of the topic, with examples, in the section on "Sales Contracts and Practices." Students will be better able to understand these concepts as they apply to sales contracts at that point.*

1. Mutual Assent (Offer and Acceptance) *[Level 3 - this subtopic]*
  - a. The Offer
  - b. Acceptance
  - c. Counteroffers
  - d. Termination of Offers
2. Consideration
3. Capacity of the Parties
4. Lawful Objective

**C. Requirement for Reality of Consent** *[Level 2]*

1. Mistake
2. Fraud and Misrepresentation
3. Duress
4. Undue Influence

**D. Contract Law and Auction Sales** *[Level 1]*

1. Basic procedures
2. "With Reserve" vs. "Without Reserve"

**E. Statute of Frauds (applied to Real Estate Contracts)** *[Level 2]*

1. Contracts to Sell or Convey any Interest in Real Property
2. Leases of Real Property Exceeding 3 Years in Duration

**F. Other Concepts** *[Level 1]*

1. Uniform Electronic Transaction Act (UETA)
2. Discharge of Contracts
  - a. Agreement of the Parties
  - b. Full Performance
  - c. Impossibility of Performance
  - d. Operation of Law

3. Assignment of Contracts
4. Novation
5. General Rules for Interpretation of Contracts
6. Contract Remedies
  - a. Money Damages
  - b. Rescission
  - c. Specific Performance (Typically limited by the courts to being a remedy for a buyer upon breach by the seller, but may be permitted in some instances as a seller's remedy in some states.)

## **X. SALES CONTRACTS AND RELATED PROCEDURES [7.0 hours]**

### **A. Introduction [Level 2]**

1. Importance of the Sales Contract
2. “Drafting” of Sales Contracts by Agents Prohibited [*See G.S. 93A-6(a)(12); Commission Rule 58A.0111; and G.S. 84-2.1.*]
3. Importance of Using the Appropriate Sales Contract Form
4. Sources of Contract Forms [*Note that sample NCAR standard forms are accessible to anyone at [www.nc.living.net](http://www.nc.living.net), a website operated by NCAR, by clicking on “Consumer Information” and then on “NCAR Sample Forms. A version of the contract forms jointly approved by NCAR and the NCBA that does NOT have the REALTOR® logo may be obtained through a real estate attorney.*]

### **B. The Offer to Purchase and Contract** (May be referred to as Sales Contract, Purchase Contract, Earnest Money Contract or some other similar name in other states) [*Level 3*]

1. Requirements of Commission Rule 58A.0112 Regarding Sales Contract Forms
2. The “Offer to Purchase and Contract” (OPC) standard form 2-T and standard addenda forms jointly approved by the North Carolina Association of REALTORS® (NCAR) and the North Carolina Bar Association (NCBA). Also, the “Vacant Lot Offer to Purchase and Contract” standard form 12-T and the standard addenda forms listed below.

*[Note: The NCAR/NCBA standard OPC form, “Guidelines for Completing The Offer to Purchase and Contract Form,” the vacant lot standard form and the most commonly used standard addenda forms designed for use with the OPC form and listed below must be provided to students and used in this instruction. Students should be advised that there are many other very useful standard forms and addenda and that all sample NCAR forms may be accessed on the [www.nc.living](http://www.nc.living) website referenced previously.]*

- a. Proper Use of the OPC Form and the Vacant Lot OPC Form
- b. Item-by-Item Review of all OPC Contract Provisions and Instructions on Proper Form Completion Using the Aforementioned Guidelines...” *[Note: Substantial classroom instruction on this critically important topic is required.]*
- c. Review and Proper Use and Completion of Commonly Used Standard Addenda Forms (provided by NCAR and NCBA for use with the standard Offer to Purchase and Contract form and listed below.
  - (1) Additional Provisions Addendum (2A11-T)
  - (2) Back-Up Contract Addendum (2A1-T)
  - (3) Contingent Sale Addendum (2A2-T)
  - (4) FHA/VA Financing Addendum (2A4-T)
  - (5) Lead-Based Paint or Lead-Based Paint Hazard Addendum (2A9-T)
  - (6) Short Sale Addendum (2A14-T)
  - (7) Buyer Possession Before Closing Agreement (2A7-T)
  - (8) Seller Possession After Closing Agreement (2A8-T)
  - (9) Vacation Rental Addendum (2A13-T) *[Review in classes with students likely to be working in resort areas.]*

***Note:** Advise students that if, after licensure, they become a member of the NC Association of REALTORS®, the association has numerous other contract-related forms that they may utilize to deal with matters such as repair requests, negotiations, termination of contract, etc. If a licensee is not a REALTOR®, he/she will need to have an attorney prepare any contract-related forms provided by the licensee to the parties if the content of the document will affect the parties’ legal rights.*

### **C. Sales Contract Procedures [Level 3]**

1. Offer and Acceptance *[Review legal requirements and apply them to the making of sales contracts through the use of practical examples.]*
  - a. Offer and acceptance using traditional methods (direct personal dealing, delivery through agents, mail, phone communication, etc.)

- b. Offer and acceptance by electronic means (fax, e-mail, etc.)
- 2. Submitting Offers to Sellers (including conditional “back-up” offers)
- 3. Handling Contract Modifications and Counteroffers
- 4. Handling Earnest Money and Due Diligence Fee *[Also covered subsequently in the section on the “Real Estate License Law and Commission Rules.” Instructors may choose where to cover this topic.]*
- 5. Handling Option Money (with Option Contracts)
- 6. Furnishing Copies of Offers and Contracts to Buyer and Seller
- D. Installment Land Contract** (Also referred to as a **Contract for Deed** or as a **Land Contract**) *[Level 1]*
  - 1. Definition and Purpose
  - 2. Typical Provisions (Note that the **buyer** is typically responsible for property taxes, assessments, homeowner dues and property insurance during the contract period.)
  - 3. Rights of Parties
  - 4. Advantages and Disadvantages from Viewpoint of Both Buyer and Seller
- E. Option to Purchase Real Estate** *[Level 2]*
  - 1. Definition and Purpose
  - 2. Rights of Parties
  - 3. Requirements of Options
- F. Agreements for “Preemptive Rights”** *[Level 1]*
  - 1. Right of First Refusal (Distinguish from “option” and “right of first opportunity to purchase.”)
  - 2. Right of First Opportunity to Purchase (Distinguish from “option” and “right of first refusal.”)

*[Important Note: Buyers and sellers should be referred to an attorney for preparation of an installment land contract, option contract, right of first refusal or right of first*

*opportunity to purchase and advice regarding these documents. Drafting of such documents by a broker constitutes the unlawful practice of law.]*

## **XI. REAL ESTATE FINANCING [7.0 hours]**

### **A. Basic Finance Concepts, Terminology and Calculations [Levels as indicated below]**

#### **1. Basic Concepts and Terminology [Level 2]**

- a. Principal and Interest
- b. Amortization and Debt Service (including PITI)
- c. Equity
- d. Usury
- e. Points, Discount, and Yield
- f. Loan Fees, Loan Value and Loan-to-Value Ratio

#### **2. Calculations [Level 3]**

*[Note: It is recommended that the procedures for performing mathematical calculations related to mortgage finance be integrated into the teaching of the essential concepts and terminology. Refer to the section of this syllabus on “Real Estate Mathematics” for descriptions of the calculations required to be taught.]*

### **B. Mortgages and Deeds of Trust [Levels as indicated below]**

#### **1. Basic Mortgage Terminology and Concepts [Level 1 except as noted below]**

- a. Mortgage, Mortgagor and Mortgagee
- b. Promissory Note (Mortgage Note)
- c. Deed of Trust, Grantor, Trustee and Beneficiary
- d. Lien Theory/Title Theory
- e. Default
- f. Foreclosure and Statutory Redemption Period [Level 2 - this subtopic]
- g. Equity of Redemption

#### **2. The Mortgage Note [Level 1 - this subtopic]**

- a. Essential Elements of a Valid Note (Note that a promissory note is a form of “contract.”)
- b. Special Note Provisions
  - (1) Acceleration Clause
  - (2) Prepayment Penalty Clause
  - (3) Due-On-Sale Clause
- c. Negotiable Note vs. Nonnegotiable Note
- d. Some states use a “bond” in lieu of a promissory note.

3. **The Mortgage (or Deed of Trust) Instrument** *[Level 1 - this subtopic]*
  - a. Distinction between a Mortgage and Deed of Trust
  - b. Essential Elements (Note that a mortgage or deed of trust is a form of “contract.”)
  - c. Parties to Mortgages/Deeds of Trust
  - d. Rights and Obligations of Parties – Note that the mortgagor (borrower) is responsible for maintaining the property to avoid the possibility of foreclosure due to “deferred maintenance.”
  - d. Signature of Spouse – Note that if husband and wife are buying as tenants by the entirety (joint tenants in many other states) and only one spouse signs the mortgage note, both spouses must still sign the mortgage or deed of trust.
4. **Rights of Borrowers** *[Level 2 - this subtopic]*
  - a. Right to Possession
  - b. Right (Equity) of Redemption
5. **Rights of Mortgage Lenders** *[Level 2 - this subtopic]*
  - a. Right to Foreclose
    - (1) Foreclosure Methods
      - (a) Judicial
      - (b) Power of Sale (nonjudicial)
      - (c) Strict
    - (2) Deficiency Judgment
  - b. Right to Transfer (Assign) the Mortgage
6. **Short Sale**
  - a. Definition
  - b. Procedures
  - c. Rights of Parties
  - d. Broker’s Role

**C. Sales of Mortgaged Property** *[Level 2; explain **briefly** the legal effect on seller and buyer in each of the following sales.]*

1. Cash Sale – Existing Mortgage Paid Off
2. Sale with Assumption of Existing Mortgage
3. Purchase Subject to Existing Mortgage

**Note:** *Assumptions of and purchases subject to a mortgage occur very infrequently because of “due on sale” clauses in most modern mortgages.*

4. Short Sale *[Covered previously in this section]*

**D. General Categories of Residential First Mortgage Loans** *[Level 2, except as indicated below]*

1. **Conventional Mortgage Loan**

- a. General Characteristics
- b. Conforming (or Conventional Conforming) and Nonconforming
- c. Insured [Private Mortgage Insurance (PMI)] vs. Noninsured (including loan-to-value requirement for no PMI)
- d. Home Equity Loan and Home Equity Line of Credit (HELOC)

2. **FHA Mortgage Loan**

- a. Loan program operated by HUD
- b. Title II, Section 203(b) Program – most widely used program
  - (1) Applies to residential 1-4 unit property loans
  - (2) General Characteristics
    - (a) Fixed-rate loans with up to 30-year terms made by lenders under FHA guidelines and FHA provides mortgage insurance
    - (b) Owner (borrower) occupancy required
    - (c) Maximum loan amount (minimum down payment) varies by region
    - (d) Interest rates set by lender, not the FHA
    - (e) Appraisal must be by FHA-approved appraiser
    - (f) No prepayment penalty
    - (g) Assumption restricted for post-1989 loans
- c. Other FHA loan programs are available for condominium loans, graduated payment mortgages (GPM) and adjustable rate mortgages (ARM). *[It is only necessary that students be aware that other programs exist.]*

3. **VA Mortgage Loan**

- a. Loan program operated by the Veterans Administration
- b. Generally, these are home (residential 1-4 family dwellings) loans made to veterans by lenders under VA guidelines and the VA *guarantees* a portion of the loan amount (the amount of the veteran's "guarantee" or "entitlement" stated in a "certificate of eligibility") in lieu of mortgage insurance.
- c. General Characteristics (including possibility of no down payment)
  - (1) Most significant feature – possibility of no down payment
  - (2) Lender sets interest rate, not the VA
  - (3) Requires a funding fee, which is similar to a mortgage insurance premium

- (4) Sale price may not exceed appraised value stated in a “certificate of reasonable value” (CRV)
- (5) Available to most veterans and unmarried widows/widowers of veterans
- (6) No prepayment penalty
- (7) Assumption restricted for post-1988 loans
- (8) VA makes direct loans in some exceptional situations

4. **U. S. Department of Agriculture Rural Development Loan** [*Level 1 - this subtopic*]

- a. Both direct and guaranteed single-family housing loans (as well as various other mortgage loans) are available through the Rural Development Housing and Community Facilities Programs of the U.S. Department of Agriculture.
- b. Eligibility Requirements (Restricted to low- income residents of rural areas or very small towns.)
- c. Characteristics (Longer than normal repayment period, low down payment and subsidized interest rates.)
- d. Contact the NC state office at [www.rurdev.usda.gov/nc](http://www.rurdev.usda.gov/nc) to obtain loan and area office information.

5. **Purchase Money Mortgage** (Seller-financed loan)

**E. Types of Mortgage Loans** [*Level 2*]

- 1. **Types by Repayment Terms** (including basic characteristics of each)
  - a. Fixed Rate - Level Payment (fully amortized)
  - b. Adjustable Rate
  - c. Graduated Payment
  - d. Term (Interest Only)
  - e. Growing Equity
  - f. Buydown
  - g. Balloon (partially amortized)
- 2. **Types by Purpose or Special Feature** (including basic characteristics of each)
  - a. Purchase Money (Note dual meaning of this term – any loan obtained to purchase a property and a loan financed by seller.)
  - b. Construction
  - c. Open End
  - d. Blanket
  - e. Package
- 3. **Types by Mortgage Priority**
  - a. First (or Senior)
  - b. Second, Third, etc. (Junior)



**F. Mortgage Priorities [Level 2]**

1. Effect and Importance of Recordation of Mortgages (Deeds of Trust) AND the Cancellation or Release of a Mortgage/Deed of Trust
2. Subordination of Mortgages

**G. U. S. Monetary Policy [Level 1]**

1. Role of the Federal Reserve — Control of Money Supply; Interest Rate (Called “Discount Rate”) on Loans to Member Banks
2. Effect on Mortgage Interest Rates
3. Effect on Availability of Mortgage Funds

**H. The Primary Mortgage Market [Level 1]**

1. Purpose – Origination of Mortgage Loans
2. Roles of Various Sources of Mortgage Loans
  - a. Direct lenders (e.g., banks, savings associations, credit unions, etc.)
  - b. Mortgage banking companies
  - c. Mortgage brokers
  - d. Others

**I. The Secondary Mortgage Market [Level 1. Explain the concepts of “loan pooling” and “mortgage-backed securities” as well as how the secondary market functions generally and the role of each of its major participants.]**

1. General Concept and Operation
2. The Various Agencies and Their Roles
  - a. Federal National Mortgage Association (FNMA - “Fannie Mae”)
  - b. Government National Mortgage Association (GNMA - “Ginnie Mae”)
  - c. Federal Home Loan Mortgage Corporation (FHLMC - “Freddie Mac”)

**J. Residential Lending Practices and Procedures** [*Level 2, except for calculations*]

1. **Loan Application Procedures** [*Use sample form for illustration.*]
  - a. Information and Documentation Typically Required
  - b. Lender's Good Faith Estimate (GFE) [*Cover subsequently under "RESPA" in "Closing Procedures" section.*]
  - c. "Rate Lock"
  - d. Lender denial must be in writing
2. **Loan Underwriting Practices**
  - a. Borrower Analysis ("Qualifying a Buyer/Borrower")
    - (1) Credit Characteristics
    - (2) Adequacy of Assets to Close the Transaction
    - (3) Stability of Income
    - (4) Types of Acceptable Income
    - (5) Adequacy of Income (Factors Considered and Expense-to-Income Ratios)
      - (a) Conventional loan
      - (b) FHA Loan
      - (c) VA Loan
    - (6) Adequacy of Income (*Calculations using typical expense-to-income ratios for conventional loans.*) [*Students should be required to perform exercises to determine whether or not a borrower is qualified for a loan given income and expense information and qualifying ratios for a conventional loan.*]
  - b. Property Analysis
    - (1) Appraisal
    - (2) Title Opinion and Title Insurance
  - c. Loan Analysis
    - (1) Yield (Interest Rate and Discount Points)
    - (2) Loan Term
    - (3) Loan-to-Value Ratio
    - (4) Mortgage Insurance
  - d. Loan Commitment and Closing

**K. Financing Legislation (Federal)** [*Levels as noted below*]

1. **Truth-in-Lending Laws/Regulations** [*Level 2*]*—The Truth-in-Lending Act (and its amendments), as implemented by Regulation Z of the Consumer Financial Protection Bureau (CFPB)*
  - a. Basic Purpose and Applicability
  - b. Disclosure of Credit Information to Borrowers

- (1) Truth-in-Lending Disclosure Form addresses four (4) chief disclosures: APR, finance charges, number and amount of payments, total amount financed.
    - (2) What APR includes
    - (3) What “finance charge” includes
  - c. Applicability to “Arrangers of Credit”
  - d. Disclosures of Credit Terms in Advertising the Sale of Real Estate (by brokers or others)
    - (1) “Trigger Terms” (down payment, monthly payment, dollar amount of finance charge, number of payments or repayment period)
- 2. **Fair Credit Reporting Act** (and Regulation B) — Basic Purpose and Requirements [*Level 1*]
- 3. **Equal Credit Opportunity Act** (and Regulation V) — Basic Purpose and Requirements [*Level 1*]

**Important Instructor Note:** Pursuant to the Dodd-Frank Wall Street and Consumer Protection Act (“**Dodd-Frank Act**”) passed in 2010, a new federal agency called the **Consumer Financial Protection Bureau (CFPB)** was assigned the **consumer protection** responsibilities of seven (7) different federal agencies (including the Federal Reserve Board, HUD and the FTC). The CFPB now is responsible for promulgating rules for the **Truth-in-Lending Act, Fair Credit Reporting Act and Equal Credit Opportunity Act**. Major rule changes regarding the Truth-in-Lending Disclosure Form are in the process of being adopted to be effective in early 2014. Because these changes have not been given final approval, they are not addressed in this syllabus. Instructors will be provided information about these changes once they have been finalized. See Chapter 13 of the **Manual** for further discussion of the Dodd-Frank Act and the CFPB.

## **XII. CLOSING A SALE TRANSACTION [8.0 hours]**

- A. **Pre-Closing Procedures** [*Level 3*] [*Instruction should emphasize throughout the responsibilities of licensees involved in the transaction to assist the buyer and seller in preparing for closing.*]
  - 1. **Selecting and Providing Information to Closing Attorney**
  - 2. **Buyer’s Due Diligence Process** (See NCAR/NCBA Offer to Purchase and Contract standard for 2-T for buyer’s responsibilities under the typical contract.)
    - a. Buyer’s Loan
    - b. Appraisal
    - c. Property Survey

- d. Property Insurance ***Note:** It is extremely important for the buyer and seller to have appropriate insurance coverage in situations when the closing is delayed, when the buyer will occupy the property before closing or when the seller will occupy the property after closing. Failure to have proper coverage in these situations may result in the property being uninsured for some period of time.*
- e. Inspections
  - (1) Wood-Destroying (Termite) Inspection
  - (2) Home Inspection by Qualified Professional
  - (3) Physical Inspection by Buyer (and Agent Working with Buyer) – Check for:
    - (a) Tenants
    - (b) Easements and Encroachments
    - (c) Recent Construction (Building Permit Obtained?)
    - (d) Violations of Zoning or Restrictive Covenants
    - (e) Sewer Service or Septic System?
  - (4) Septic System (if appropriate)
    - (a) Soil Suitability Test for Unimproved Land [*Note that students will encounter the term “percolation test” on the National section of the license examination. The term is technically obsolete in NC but still widely utilized.*]
    - (b) Capacity of Septic System for Improved Land
  - (5) Others (if needed or desired) – Lead-Based Paint Inspection; Radon Inspection; Asbestos Inspection; Mold Inspection
- f. Resolution of Repair Issues
- g. Review of Restrictive Covenants and Homeowner’s Association Documents
- h. Other Matters of Interest to Buyer (whether planned property use is permitted; plans for adjacent undeveloped property; subdivision streets public or private, etc.)

### 3. **Other Pre-Closing Matters**

- a. Title Examination (including personal property lien search and mechanic’s lien inquiry)
- b. Clearing of Title Defects (if needed)
- c. Loan closing package provided to closing attorney by lender
- d. Broker holding earnest money transfers earnest money to closing attorney (or notifies attorney that EM will be retained as credit toward brokerage fee)
- e. *Brokers working with seller and buyer perform advance review of closing statement*
- f. Buyer notified as to funds needed to close
- g. Closing attorney arranges for title insurance

**B. Closing Procedures [Level 3]**

1. Definitions of “Settlement” and “Closing”
2. Closing Methods
  - a. Escrow Closing *[Level 1 – this subtopic]*
  - b. Settlement Meeting Method (including role of attorneys and non-attorneys)
3. Settlement Meeting Procedures
  - a. Location where meeting is conducted
  - b. Parties attending closing
  - c. Final closing statement review
  - d. Review and signing of documents
  - e. Collection of funds due from buyer
4. Procedures after the Closing
  - a. Title Update and Recording of Deed and Deed of Trust (and cancellation of seller’s loans that were paid off at closing)
  - b. Disbursement of Proceeds and Brokerage Commission (Note effect of the **Good Funds Settlement Act**)
  - c. Income Tax Reporting Requirements

**C. Real Estate Settlement Procedures Act (RESPA) [Level 2]**

1. **Purpose and Applicability**
2. **Law is enforced by the Consumer Financial Protection Bureau (CFPB)** and is implemented by rules referred to as *Regulation X*.
3. **Major RESPA Requirements and Consumer Protections**
  - a. Information Booklet – *Shopping for Your Home Loan* must be provided to borrowers within three days of loan application.
  - b. Good Faith Estimate (GFE) disclosure must be provided by loan originators to borrowers within three business days following loan application.
  - c. Borrower Credit for “Yield Spread Premiums”
  - d. HUD-1 Settlement Statement form must be used by settlement agents in all transactions subject to RESPA.
  - e. RESPA prohibits the payment of a “kickback” or “referral” fee **to any “settlement service provider” (including real estate agents)** for referrals. (Note also that real estate agents may not **accept** any referral fee from a settlement services provider, such as an appraiser, home inspector, attorney, etc.) The law/rules also regulate “controlled or affiliated business arrangements” that

- provide multiple real estate services (e.g., brokerage, mortgage loan, attorney services, home inspections, etc.) under a “one-stop shopping” approach.
  - f. Regulates reserve (impound or escrow) accounts for payment of property taxes and insurance premiums by limiting the amounts that lenders or loan servicers may require a borrower to pay into and maintain in the account.
  - g. Loan servicers must (1) disclose to borrowers whether they can transfer the right to service the borrower’s loan and (2) disclose to borrowers if the servicing is transferred.
4. **Good Faith Estimate (GFE)** *[Instructors should use a sample completed GFE form to teach this topic.]*
    - a. Purposes of form
    - b. Relationship to HUD-1 form
    - c. Review of sample form
  5. **HUD-1 Settlement Statement Form** *[Instructors should use a sample HUD-1 form to teach this topic.]*
    - a. Format and Features
    - b. Correlation to GFE
    - c. Review of Sample Form

**Important Instructor Note:** See the note about the **Dodd-Frank Act** and the **Consumer Financial Protection Bureau (CFPB)** on page 37 of this syllabus. The consumer protection oversight responsibility given to the CFPB include those consumer protections provided by RESPA and the CFPB now promulgates the rules (known as Regulation X) that implement RESPA. Major rule changes are being planned for implementation in early 2014. These changes will affect both the GFE and HUD-1 forms. Instructors will be provided information on these changes after the revised rules are finalized.

**D. The Closing Statement** *[Level 3]*

1. **Basic Closing Statement Concepts**
  - a. Debits (Charges) and Credits
  - b. Prorations *[Students should understand how to calculate prorations using both the methods listed below.]*
    - (1) 365-Day Year Method  
(Most commonly used method in practice.)
    - (2) 360-Day Year/30-Day Month Method  
(Method used on prelicense course final examination and real estate license examination.)
    - (3) Items Commonly Prorated
      - (a) Real Estate Taxes
      - (b) Homeowner’s Dues

(c) Rents (on rented properties being sold)

2. **Closing Statement Entries and Calculations** *[Students are expected to (1) be able to perform all basic closing statement calculations, (2) accurately prepare a closing statement utilizing the **Closing Statement Worksheet** provided by the Commission and used on the prelicense course examination and the license examination, and (3) fully understand the HUD-1 Settlement Statement form and be able to perform their responsibilities with regard to verifying the accuracy of closing statements prepared on the HUD-1 form. Students should be afforded extensive practice with performing various closing statement calculations and preparing a closing statement using the Closing Statement Worksheet. Instructors should also thoroughly review a sample completed HUD-1 form (with discussion of various possible entries in different situations) to assure that students have a good understanding of the form and common entries.]*
3. **Broker's Responsibilities Relating to Closing Statements** *[See pages 572-3 of 2013-14 NC Real Estate Manual for additional explanation.]*
  - a. Brokers should possess a thorough understanding of closing statements in order to help protect the interests of transaction parties.
  - b. For closing statements prepared by an attorney, the broker is to confirm completion in accordance with the sales contract and to *verify the accuracy of those entries about which he or she has direct knowledge* (such as sale price, earnest money, due diligence fee, brokerage commission, etc. For amounts due to or from third parties, the broker may assume the amounts entered by the attorney are correct (in the absence of a red flag); however, the broker is expected to assure that: (1) all relevant charges and credits are properly charged or credited and (2) all calculations for prorated items, escrow reserves, interim interest, excise tax and "bottom-line" figures are correct.
  - c. G.S. §93A-6(a)(14) requires brokers to furnish the seller and buyer a detailed and accurate closing statement. A broker may adopt a closing statement prepared by an attorney for this purpose, but must verify its accuracy as described in b. above.

### **XIII. REAL PROPERTY VALUATION [6.0 hours]**

#### **A. Introduction** *[Level 1. Provide a very brief overview.]*

1. **Key Definitions and Law Changes** *[See Chapter 15, NC Real Estate Manual. Include at this point a **very brief** summary of the key 2012*

*changes to the Real Estate License Law and Appraisers Act regarding “broker price opinions”(BPOs) and “comparative market analyses”(CMAs). Then, cover these law changes in more depth later in this section.]*

- a. “Real Estate Appraisal”
- b. “Broker Price Opinion (BPO)” and “Comparative Market Analysis (CMA)” have exactly the same meaning under NC law.
- c. Law now permits a licensed “non-provisional” broker (with a current and active license) to perform a BPO/CMA **for a fee**.
- d. A broker’s BPO/CMA may only estimate the “probable selling price” or “probable leasing price” of a property, not the “value” or “worth” of a property. Any estimate of a property’s “value” is considered to be an “appraisal” and must be performed by a licensed or certified real estate appraiser.
- e. A BPO/CMA provided by a non-provisional broker for a fee must be performed in accordance with Article 6 of the NC Real Estate License Law and rules adopted by the Real Estate Commission.

## **2. Regulation of Appraisers**

- a. Federal Agencies
- b. State Licensing/Certification by NC Appraisers Board

## **B. Basic Valuation Concepts [Level 2]**

1. Definitions: “Appraisal,” “Value,” “Cost,” “Price” and “Market Value”
2. Forces and Factors Influencing Property Value
3. Basic Economic Principles of Value

## **C. The Valuation Process (in General) [Level 1]**

1. Definition of the Problem (Task)
2. Determine and Perform Appropriate Scope of Work
3. Data Collection and Analysis
4. Highest and Best Use Analysis
5. Application of Approaches to Value
6. Reconciliation and Final Value Estimates
7. Appraisal Report [*Suggest using a sample appraisal completed on a Uniform Residential Appraisal Report (URAR) form for illustration.*]

## **D. Approaches to Value (Appraisal Methods) [Levels as Indicated Below]**

1. **Sales Comparison Approach** [*Level 3. Because the theory and methodology involved in this approach used by appraisers is exactly the same as that used when a broker performs a BPO/CMA*]



*on a residential property, students should be afforded practice in the use of this approach, with a focus on estimating the value of residential properties.]*

- a. Definition and General Use; Terminology
- b. Procedures (Including Calculations)
  - (1) Data collection and analysis
  - (2) Selection of “comparables”
  - (3) Adjustments to sale prices of comparables
  - (4) Reconciliation and determination of value estimate
- c. Sales Comparison Approach Calculations

2. **Cost Approach** *[Level 2 except as otherwise noted]*

- a. Definition and General Use; Terminology
- b. Estimate of Land (Lot) Value
- c. Estimating Building Costs
  - (1) Reproduction Cost vs. Replacement Cost
  - (2) Estimating Reproduction or Replacement Cost Using the Square Foot Method
- d. Estimating Depreciation
  - (1) Definition and Basic Concepts (such as “effective age” and “economic life”)
  - (2) Depreciation Methods
    - (a) Age/Life (Straight-Line) Method
    - (b) Market Extraction Method *[Level 1 – this subtopic]*
    - (c) Breakdown Method (Basic concepts only.)
      - (i) Physical Deterioration (curable and incurable)
      - (ii) Functional Obsolescence (curable and incurable)
      - (iii) Economic Obsolescence (incurable only)
- e. Formulating the Opinion of Value
- f. Cost Approach Calculations *[Level 3]*

3. **Income Approaches** (Direct Capitalization and GRM Methods Only) *[Level 2 except as otherwise noted]*

- a. Definition and General Use
- b. Direct Capitalization Method
  - (1) Estimate gross potential income
  - (2) Derive net operating income estimate
  - (3) Derive capitalization rate by either (a) or (b):
    - (a) Market abstraction method
    - (b) Other methods *[These are beyond the scope of this course. Mention only that other methods may be used.]*

- (4) Derive estimate of property value
- c. **Gross Rent Multiplier (GRM) Method**
  - (1) Obtain sales price and gross income (rent) data on recently-sold similar (comparable) properties.  
(Also record property and other sales data for comparative purposes.)
  - (2) Derive GRM for each comparable
  - (3) Reconcile data to determine appropriate GRM
  - (4) Derive estimate of subject property's value
- d. Calculations Related to Income Approach [*Level 3*]

4. **Reconciliation of the Three Approaches to Value and Derivation of Estimate of Value** [*Level 1*]

**E. Broker Price Opinion (BPO)/Comparative Market Analysis (CMA)**

*Instructor Note. For detailed coverage of this subject, instructors are directed to Chapter 15, NC Real Estate Manual.*

- 1. Prior to October 1, 2012, brokers could only perform BPOs/CMAs (for a fee or for no fee) for an *actual or legitimate prospective client*.in connection with normal brokerage services.
- 2. Revisions to Real Estate License Law and Appraisers Act now permit, effective October 1, 2012, a **non-provisional** broker only to perform a BPO/CMA **for a fee** for anyone without the need for an actual or prospective brokerage relationship with that person/entity, subject to certain restrictions:
  - a. The BPO/CMA may NOT be performed to serve as the basis for determining the **value** of property for the purpose of making a mortgage loan (first, second, refinance or equity line of credit).
  - b. The BPO/CMA must estimate only the **“probable sales price”** or **“probable lease price”** and may NOT estimate the “value” or “worth” of a property.
  - c. The BPO/CMA must be provided **in writing**.
  - d. The BPO/CMA must be performed in accordance with the provisions of Article 6 of the Real Estate License Law and Section 58A.2200 of the Commission’s rules.
- 3. Review of Standards for BPOs/CMAs under above-referenced Governing Law and Commission Rules
- 4. BPOs/CMAs Performed for NO FEE

5. Real Estate Agent's Duty with Regard to Providing a CMA/BPO
6. The BPO/CMA Process *[Note the BPO/CMA Sales Comparison Analysis Illustration and Adjustments Example at the end of Chapter 15 in the Manual.]*

## **XIV. LANDLORD AND TENANT [2.25 hours]**

### **A. Relationship of Landlord and Tenant [Level 2]**

1. Definitions: Landlord (Lessor), Tenant (Lessee), Lease
2. Privity of Estate and Privity of Contract Concepts

### **B. Laws Protecting Residential Tenants [Level 2]**

1. The Residential Rental Agreements Act
  - a. Obligations of Landlord and Tenant Are Mutually Dependent
  - b. Landlord's Statutory Duties
  - c. Tenant's Statutory Duties
  - d. Tenant Remedies for Breach by Landlord
2. Common Law
  - a. "Constructive Eviction"
  - b. Landlord's Liability under the Law of Negligence
3. Residential Eviction Laws/Procedures
  - a. "Self-help" eviction is prohibited
  - b. Act Prohibiting Retaliatory Eviction
  - c. Statutory eviction procedures utilizing the courts must be followed
4. Tenant Security Deposit Act
  - a. Permitted Uses of Security Deposit
  - b. Accounting to the Tenant
  - c. Security Deposit Limits
  - d. Pet Deposits Permitted
5. Fair Housing Laws *[Briefly mention here – see subsequent section on "Fair Housing"]* and Law Prohibiting Sexual Harassment
6. Laws Protecting Public Housing Tenants
7. Laws Protecting Tenants in Foreclosure Situations
8. North Carolina Vacation Rental Act

*[Note: When teaching a class in an area with substantial vacation rentals (e.g., coastal area or mountains), instructors should undertake a review of this law.]*

- a. Purpose, Applicability and Basic Definitions
- b. Requirement for Vacation Rental Agreements to Be in Writing
- c. Procedures for Handling Rents and Security Deposits
- d. Tenant Protection When Rental Property is Sold
- e. Expedited Eviction Proceedings
- f. Landlord/Tenant Duties
- g. Mandatory Evacuations: Refunds and Insurance

**C. Nonfreehold Estates** *[Level 2 - Explain characteristics of each type of estate.]*

- 1. Tenancies for Years
- 2. Tenancies from Period to Period (Periodic Tenancies)
- 3. Tenancies at Will
- 4. Tenancies at Sufferance

**D. Leases** *[Level 2]*

- 1. Types of Leases *[Explain use and characteristics of each type of lease.]*
  - a. Fixed Rental (Flat or Gross) Lease
  - b. Percentage Lease (including *calculation* of rent) *[Level 3 – this subtopic]*
  - c. Net Lease
  - d. Graduated Lease
  - e. Index Lease
  - f. Full Service Lease
  - g. Ground Lease
- 2. Selected Common Residential Lease Provisions
  - a. Essential Provisions (Basically the same as for any contract.)
  - b. Other Common Provisions (Relating to matters listed below and similar matters)
    - (1) Tenant's Use of Premises
    - (2) Fixtures
    - (3) Assignments and Subleases
    - (4) Renewal and Termination
- 3. Landlord's Implied Covenant of Quiet Enjoyment
- 4. Review of Major Provisions in NCAR's Residential Rental Contract standard form 410-T.
- 5. Application of Statute of Frauds

6. Recordation of Leases

## **XV. PROPERTY MANAGEMENT [2.25 hours]**

**Note:** *Instruction should focus primarily on **residential** property management.*

### **A. The Owner-Property Manager Relationship [Level 2 except as noted]**

1. Authority of Property Manager (Agent) Established by Property Management Contract
2. Duties of Property Manager (Agent) to Property Owner (Principal) and to Third Persons (Tenants and Prospective Tenants) [*See “Brokerage Relationships: Law and Practice”.*]
3. Property Management Fee (Typical Fee Arrangements and Fee Calculations) [*Level 3 for calculations*]

### **B. Property Management Contracts (Typical Provisions) [Level 2]**

1. Property Description
2. Contract Period
3. Agent - Property Manager's Fee
4. Agent's Authority (Powers)
5. Agent's Responsibilities (Specific Duties)

### **C. Typical Property Management Duties [Level 2 except for calculations, which are Level 3]**

**Note:** *Include at **Level 3** coverage of very basic routine **calculations** related to duties 1 and 11 below, such as rent (actual or projected), effective gross income, operating expenses, net operating income and cash flow after debt service.*

1. Preparation of Management Plan (including a Rental Schedule and an Operating Budget) [*Includes calculations*]
2. Marketing the Property
3. Qualifying and Selecting Tenants [*Discuss factors that may/may not be considered. This discussion may be deferred and covered under “Fair Housing,” but must not be overlooked!*]
4. Executing Leases for Owner
5. Collecting Rents and Security Deposits
6. Handling Collected Monies According to Laws/Rules
7. Maintaining the Property
8. Preparing/Enforcing Rules and Regulations
9. Maintaining Property Insurance

10. Maintaining Accurate Records
11. Preparing Income/Expense Reports and Accounting to Owner *[Includes calculations]*
12. Performing Landlord's Legal Duties
13. Instituting Legal Actions (e.g., Tenant Eviction)
14. Complying with Americans with Disabilities Act and Fair Housing Laws

## **XVI. FAIR HOUSING [1.5 hours]**

### **A. Federal Fair Housing Act (Title VIII of 1968 Civil Rights Act) *[Level 3]***

1. **Discrimination in the Sale or Rental of Housing Based on Race, Color, Religion, Sex, National Origin, Handicap or Familial Status** *[Use examples of each type of discrimination for illustration.]*
  - a. "Blockbusting" (or "Panic Peddling")
  - b. "Steering"
  - c. Discriminatory Advertising [Note – includes any Internet posting, even a "blog".]
  - d. Refusing to Sell, Rent, or Negotiate Based on Race, etc.
  - e. Discrimination in Terms, Conditions, or Privileges
  - f. Discrimination in the Financing of Housing ("Redlining" and related practices)
  - g. Discrimination in Provision of Brokerage Services
2. **Exemptions** (Exempt Transactions)
3. **Equal Opportunity Housing poster** must be displayed at real estate brokerage offices, model homes, lenders' offices and related places. Failure to display the poster is considered *prima facie* evidence of discrimination by HUD.
4. **Design and Construction of Multi-Family Housing** [All buildings with four or more residential units constructed after March 13, 1991 must allow access and use by handicapped persons.]
5. **Enforcement and Penalties**
  - a. By administrative procedure through the Office of Fair Housing and Equal Opportunity (OFHEO) of the Department of Housing and Urban Development (HUD). Complaint must be filed within one year.
  - b. By Private Lawsuit in Federal Court. Complaint must be filed within one year.
  - c. *Criminal* penalties are provided for persons who coerce, intimidate, threaten or interfere with (1) a person's buying, renting or selling housing, (2) a person making a complaint of

discrimination; or (3) a person exercising any rights under the fair housing law.

- d. Note that a complaint filed with HUD will actually be referred to the NC Human Relations Council for investigation because NC has an equivalent state fair housing law.

**B. State [N.C.] Fair Housing Act [Level 2]**

1. Unlawful Discriminatory Housing Practices (**Note:** Provisions of the State Act are virtually identical to those of the Federal Act. Thus, as a general rule, a violation of either act is also a violation of the other.)
2. Exemptions (**Note:** Exemptions under the State Act are substantially different from those under the Federal Act.)
3. Enforcement and Penalties
  - a. By administrative procedure through the N.C. Human Relations Council. Complaints must be filed within one year.
  - b. By private lawsuit in state court. Complaints must be filed within one year.

**C. Federal Civil Rights Act of 1866 [Level 2]**

1. Basic Provisions (Law only addresses discrimination based on **race**, but without the exemptions contained in the Federal and State Fair Housing Acts.)
2. Enforcement by private lawsuit in federal court only.

**D. Americans with Disabilities Act (ADA) — Facility Accessibility and Use Requirements for “Commercial Facilities” or “Places of Public Accommodation”**  
Note that a real estate office is a place of public accommodation. [Level 1]

**E. N.C. Law Prohibiting Sexual Harassment by Residential Lessors or Their Agents [Level 1]**

**XVII. FEDERAL INCOME TAXATION OF HOME OWNERSHIP/SALE**  
**[1.0 hour]**

*[Note: Emphasize that licensees should never attempt to provide tax advice to clients or customers unless they possess the special knowledge and expertise in the tax field which qualifies them to provide such advice. The limited instruction provided in this course in no way qualifies the student to provide tax advice and is merely intended to enable agents to recognize situations where a client or customer might benefit from professional tax advice so that the agent might then refer such client or customer to a qualified tax accountant or attorney.]*

**A. Deductions from Income for Owners of Personal Residences [Level 2]**

1. **Real Property Taxes** (Main and Second Homes) – deduction taken in year(s) paid.
2. **Loan Expenses** (Main and Second Homes)
  - a. **Mortgage interest** – includes *regular interest* plus any *late payment charges* and *prepayment penalty*) – deduction taken in year(s) paid.
  - b. **“Points”** – includes loan “*discount points*” paid as “prepaid interest” at the time of loan origination to reduce the interest rate and *may* include some *loan origination fees* (consult tax advisor) – generally must be deducted ratably over the life of the loan, but may in some circumstances may be deducted in the year paid for a main home.

**B. Taxation of Gain on Sale of Principal Residence [Level 2]**

1. Eligible Property (Principal Residence Only)
2. Terminology
  - a. Basis and Adjusted Basis
  - b. Capital Improvement
  - c. Gain and Loss
3. Rules for Taxation of Capital Gain (Note the major exemptions that exempt gains from taxation in a majority of residential transactions.)

**C. Special Rules That May Apply to Some Residential Transactions [Level 1—*Instructors should merely make students aware that special tax rules exist for the following. Time devoted to these topics should be minimal.*]**

1. Installment Sales — Basic concept
2. Like-Kind Exchange — Basic concept
3. Vacation Homes — Basic rule for owner use
4. Office in Home — Basic concept



## **XVIII. BASIC HOUSE CONSTRUCTION [1.0 hours]**

*[The purpose of this section is to provide the student with an **elementary** knowledge of basic house construction principles, techniques and terminology which will assist the student in listing/showing/selling such properties. Study is limited to the wood-frame (including brick veneer) type of construction because of its predominant use in this area. Extensive use of visual aids, handout materials and/or references to websites is recommended due to limited class time.]*

### **A. Architectural Types and Styles [Level 1]**

1. Basic Types
  - a. One story (ranch) – generally the most expensive to build per square foot
  - b. 1½ story
  - c. Multi-story (two, 2½ or three levels)
  - d. Split-level
2. Common Styles *[House styles are very numerous and can vary greatly by region. Some styles even have different names depending on where located. This topic is not tested on the license examination. Suggest instructors refer students to websites with illustrations of house styles, such as [www.architecture.about.com](http://www.architecture.about.com).]*

### **B. Foundations [Level 1]**

1. Basic Components: Footings, slab, foundation wall, piers
2. Major Types
  - a. Concrete Slab
    1. Monolithic
    2. Floating
  - b. Basement
  - c. Crawl Space
3. Termite Protection
  - a. Chemical treatment of ground near foundation walls and piers
  - b. Pressure-treated wood
4. Ventilation
5. Waterproofing

### **C. Framing [Level 1]**

1. Framing Systems: Platform (most common), balloon, post and beam
2. Floors — Major Components: sill (or sill plate or mud sill), floor joists, girders, bridging, subfloor
3. Walls – Basic Components: studs, headers

4. Roof and Ceiling Framing
  - a. Major Roof Types (designs) include: gable, hip, shed, flat, mansard, and gambrel [Note that there seems to be no generally accepted term to describe the complex roof designs in modern upscale homes. *Not tested on license exam at this time, but instructors should still show students an illustration of the major types.*]
  - b. Basic Components: ceiling joists, rafters, ridge board

**D. Exterior Walls [Level 1]**

1. Sheathing – plywood or comparable product
  2. “Tar paper” (asphalt treated paper or felt) or “House Wrap” which has become the material of choice instead of tar paper.
- Note:** A product that combines the sheathing and house wrap is also available.
3. Siding – wood, manufactured wood, fiber cement, brick veneer, vinyl, stucco, synthetic stucco (EIFS)

**E. Windows and Exterior Doors [Level 1]**

1. Windows
  - a. Types
    - (1) Sliding Windows: Double-hung and horizontal sliding
    - (2) Swinging Windows: Casement, jalousie, hopper, and awning
    - (3) Fixed Windows: Picture, bay and bow
  - b. Major Components: sill, header, jamb, sash, muntins & mullions
2. Doors — Major Types include: Flush, panel, sliding glass and French

**F. Roofing Components [Level 1]**

1. Roof Sheathing (Decking) – plywood or material similar to wall sheathing
2. Roofing Felt
3. Outer Roof Covering: asphalt & fiberglass composition shingles, wood shingles or shakes, tile
4. Eaves (fascia board, soffit & frieze board)

**G. Insulation [Level 1]**

1. Insulation Materials – fiberglass batts or blankets, loose fill insulation
2. Required insulation under North Carolina Uniform Residential Building Code:
  - a. Walls R-13
  - b. Ceilings R-30
  - c. Floors R-19

[Note: Higher Values are required in the colder, mountainous counties of northwestern North Carolina.]

3. Weatherstripping
4. Moisture Control (vapor barriers and attic ventilation)

**H. Interior Finishes for Walls, Ceilings and Floors [Level 1]**

*Note: These are so well known that they are not listed and should not need to be taught in class.*

**I. Heating/Air Conditioning Systems [Level 1]**

1. Heating Systems
  - a. Power Sources: The sun, gas, oil, electricity, coal, wood, etc.
  - b. Methods of Heating: Solar, warm air, hot water, steam, electric wire
  - c. Types of Heating Systems
    - (1) Gravity Warm Air (e.g., central furnace with no duct distribution system and fan)
    - (2) Central Forced Warm Air (the common system in homes built in the last half-century that use heat pumps or gas furnaces with fan and duct distribution system)
    - (3) Electric Baseboard
    - (4) Space Heating Systems (Includes wood stoves, gas heaters, kerosene heaters, electric heaters, radiators, fireplaces, etc.)
    - (5) Solar Heating Systems (Active, Passive)
2. Air Conditioning Systems
  - a. Central Forced-Air (may be powered by electricity, gas or oil)
  - b. Room Air Conditioners
3. Combination Systems — The Heat Pump

**J. Government Regulation [Level 1]**

1. North Carolina Uniform Residential Building Code
2. HUD Minimum Standards
3. Contractor Licensing

**K. Modular Homes – General Description [Level 1]**

**XIX. BASIC REAL ESTATE INVESTMENT [2.0 hours]**

- A. Selected Basic Real Estate Investment Concepts and Calculations [Level 1 for concepts; Level 3 for calculation. Due to limited available class time for teaching this subject, instructors are strongly urged to assign problems for students to work outside of class.]**

1. Basic Concepts (and calculations for each)
  - a. Equity and equity buildup
  - b. Leverage
  - c. Cash flow after debt service (also referred to as “before tax cash flow” or “cash throwoff”)
  - d. Appreciation
2. Using a capitalization rate to evaluate a potential investment:
  - a. Determine estimated value to investor using known/projected NOI and known/projected capitalization rate
  - b. Determine the projected capitalization rate using a known purchase price and known/projected NOI
  - c. Determine the amount of NOI needed to produce a particular capitalization rate using a known/projected capitalization rate and known/projected value/purchase price

***Note:** The investment calculations using a capitalization rate are exactly the same as the calculations used in the income approach to value (previously covered in the syllabus under Section XIII. Real Property Valuation), only approached from an investment perspective rather than a valuation perspective. Only **minimal** classroom instruction should be needed to address these calculations. Provide students with problems they can work outside of class to assist in teaching these calculations from an investment perspective.*

3. Using an equity dividend rate (“cash on cash” rate of return) to evaluate a potential investment:
  - a. Determine amount of equity needed to produce a particular rate of return on equity invested using a known/projected amount of cash flow and known/projected rate of return
  - b. Determine the rate of return on equity invested using known/projected cash flow and known/projected investor equity
  - c. Determine the amount of cash flow needed to produce a particular rate of return on equity invested using a known/projected rate of return and known/projected equity

**B. Forms of Business Ownership (from investment perspective) [Level 2]**

- a. Basic characteristics of the following forms of business ownership:
  - (1) Sole Proprietorship
  - (2) General or Limited Partnership
  - (3) Limited Liability Company
- b. Advantages/disadvantages of each form of ownership for owning investment property

## **XX. REAL ESTATE LICENSE LAW AND COMMISSION RULES**

**[8.0 hours]**

*Each approved text will include the **North Carolina Real Estate License Law, the Commission's Rules, and the License Law and Rule Comments** that were in effect at the time of the text's publication. Instructors must be alert to also include instruction on any law and/or rule changes enacted between text editions. The License Law, Rules and "Comments" will be updated regularly on the Commission's website and Education Staff will also advise instructors of changes that affect their instruction.*

**USE THE "LICENSE LAW AND RULE COMMENTS" AS YOUR BASIC INSTRUCTIONAL GUIDE FOR THIS SUBJECT AREA!**

*The sequence of topics in this section has been made consistent with the topic sequence in the "License Law and Rule Comments" to facilitate instructor use of the "Comments" in presenting this material. The "Comments" explain many selected statutory and rule provisions, but they do not include the text of such provisions, nor do they address every provision. Thus, **it is not sufficient to merely teach from the "License Law and Rule Comments."** Instructors will need to teach the actual text of many law and rule provisions in order for students to properly understand them. Note that it is not necessary for instructors to utilize the Commission's "Trust Account Guidelines" in the prelicense course.*

### **A. Requirement for a License [Level 2]**

1. Basic Licensing Requirement [G.S. 93A-1]
2. Definitions (License Categories)
  - a. Provisional Broker, Broker & Broker-In-Charge [G.S. 93A-2(a), 2(a1) and 2(a2)]
  - b. Limited Nonresident Commercial Broker [G.S. 93A-9(b); Rules A.1801, A.1803(a), A.1806, A.1807(a)-(c), A.1808]
  - c. Licensing of Business Entities (Firms) [G.S. 93A-1 and 2; Rule A.0502]
3. Activities Requiring a License [G.S. 93A-2(a)]
4. Activities of Unlicensed Assistants/Employees (Permitted and Not Permitted)
5. Exempt Activities [G.S. 93A-2(c)]

### **B. The Real Estate Commission [Level 1]**

1. Composition [G.S. 93A-3(a)]
2. Purpose and Powers [G.S. 93A-3(a), (c) and (f); G.S. 93A-6; G.S. 93A-4(d), 4A and 4.1, 4.2 & 4.3; G.S. 93A-9]
3. Disciplinary Authority [G.S. 93A-6(a)-(c)]

**C. General Licensing Provisions [Level 2]**

*Note: This section is not discussed in the “License Law and Rule Comments” but must be covered.*

1. Licensing of Individual Persons [G.S. 93A-4(a) and (a1); Rules Section A.1900]
  - a. Provisional Brokers – Prelicensing and Postlicensing Education Requirements
  - b. Termination of “Provisional” Status and Consequence of Not Satisfying Postlicensing Education Requirement
2. Business Entity (Firm) Licensing [G.S. 93A-1 and 2; Rule A.0502]  
*[Covered previously in outline.]*
3. License Expiration and Renewal [G.S. 93A-4(c); Rule A.0503]
4. Continuing Education [G.S. 93A-4.1; Rules Section A.1700]
5. Active and Inactive License Status [Rule A. 0504]
6. License Reinstatement [G.S. 93A-4(c); Rule A.0505]
7. Broker Supervision of Provisional Brokers [G.S. 93A-2(b); Rule A.0506]
8. Payment of License Fees [ G.S. 93A-4(a); Rule A.0507]
9. Proof of Licensure [Rule A.0101(a)-(d)]
10. Change of Name or Address [Rule A.0103]
11. Reporting Criminal Convictions [Rule A.0113]

**D. Prohibited Acts/Conduct [Level 3]**

*Important Note: Topics relating to G.S. 93A-6(a)(1), which addresses “Misrepresentation and Omission of Material Fact”, as well as G.S. 93A-6(a)(4) and (6) and Rule A.0104(d), which address “Conflicts of Interest”, are covered in Section VII on “Brokerage Relationships: Law and Practice.”*

1. Making False Promises [G.S. 93A-6(a)(2) and (3)]
2. Improper Brokerage Commissions [G.S. 93A-6(a)(5) and (9)]
3. Unworthiness and Incompetence [G.S.93A-6(a)(8)]
4. Improper, Fraudulent or Dishonest Dealing [G.S. 93A-6(a)(10)]
5. Discriminatory Practices [G.S. 93A-6(a)(10); Rule A.1601]
6. Practice of Law [G.S. 93A-4(e); G.S. 93A-6(a)(11); Rule A.0111]
7. Violation of Any Rule [G.S. 93A-6(a)(15)]
8. Other Prohibited Acts (Other Grounds for Disciplinary Action) [G.S. 93A-6(b)]
9. Injunctive Relief for Unlicensed Activity [G.S. 93A-6(c)]
10. License Surrender [G.S. 93A-6(e)]
11. Imposition of Restrictions on License or Approval [G.S. 93A-6(f)]

**E. General Brokerage Provisions [Level 3]**

**Important Note:** Topics relating to **Rules 58A.0104 “Agency Agreements and Disclosure”** and **58A.0112 “Offers and Sales Contracts”** are covered in other sections of this syllabus. See Section VII on “Brokerage Relationships: Law and Practice,” Section VIII on “Agency Contracts and Related Practices,” and Section X on “Sales Contracts and Related Procedures.” Also, a **“Broker’s Responsibility for Closing Statements”** is covered in Section XII on “Closing a Sale Transaction.”

1. Advertising [Rule A.0105]
2. Delivery of Instruments [G.S. 93A-6(a)(13) and (14); Rules A.0106 and A.0107(c)]
3. Retention of Records [Rule A.0108]
4. Brokerage Fees and Compensation [Rule A.0109]
5. Drafting Legal Instruments [Rule A.0111]
6. Disclosure of Offers [Rule A.0115]

**F. Broker-in-Charge [Level 2] [G.S. 93A-2(a1) and 93A-4.2; Rule A.0110]**

**Note** that Rule A.0110 is being reorganized and a number of provisions are being changed effective April 1, 2013.

1. Requirement for a Broker-in-Charge; Sole Proprietors
2. Broker-in-Charge Qualification Requirements
3. Broker-in-Charge Duties/Responsibilities

**G. Handling Trust Funds [Level 2]**

**[Important Notes:** Syllabus calls for covering **basics of trust accounts and handling of trust money**. Detailed accounting/recordkeeping procedures for brokerage trust accounts are **NOT** covered in this course and not tested on the license examination. Instructors do **NOT** need to teach the “Disbursing Trust Funds” and “Recordkeeping and Accounting” sections of the Commission’s “Trust Account Guidelines.” Instructors and students are strongly urged to use the coverage of this topic in the **“License Law and Rule Comments”** to teach/study this topic.]

**Note:** Effective April 1, 2013, Rule A.0107 is being repealed and readopted with changes as Rules A.0116 (Handling of Earnest Money), A.0117 (Accounting for Trust Money), and A.0118 (Trust Money Belonging to Property Owners’ Associations). The rule citations shown below are those effective April 1, 2013.

1. **Definition of Trust Money** [G.S. 93A-6(a)(12); Rule A.0116 (a)]  
“Trust money” is all money received by a broker acting in his or her fiduciary capacity as a broker (including money received as an escrow agent or as the custodian or manager of the funds of another person or entity which relate to or concern that person’s or entity’s interest or

investment in real property). Most common examples: earnest money, down payments, tenant security deposits and rents.

2. **Trust Account Basics** (Other than Accounting and Recordkeeping Procedures)[G.S. 93A-6(a)(12) and (g); 93A-45(c); Rule A. 0116(c),(d),(e) and (f); Rule A.0117(b) and (c)(4)(B); “License Law and Rule Comments” on “Handling Trust Funds”]
  - a. Basic Required Features of Trust Account [G.S. 93A-6(g)]
  - b. Requirements of Tenant Security Deposit Act Regarding Location of Trust Account Holding Residential Tenant Security Deposits on Properties Located in NC [See LL&R Comments]
  - c. Proper Designation of Trust Account and FDIC Insurance [See LL&R Comments]
  - d. When a Trust Account Is Required [See LL&R Comments]
  - e. Number of Trust Accounts Required/Permitted [See LL&R Comments]
  - f. “Commingling” of Funds Prohibited [G.S. 93A-6(a)(12)]
  - g. Limited Exception to Commingling Prohibition Allowed to Cover Bank Service Charges on Trust Accounts [Rule A.0117(c)(4)(B)]
  - h. Requirements for Interest-Bearing Trust Account [G.S. 93A-6(a)(12); Rule A.0116(c)]
  - i. Broker-In-Charge Is Responsible for Trust Account [Rule A.0110(g)(4)]
  - j. Trust Account Custodian Other than BIC [See LL&R Comments]
  - k. Disbursement of Earnest Money to Settlement Agent; Use of Earnest Money in Trust Account [Rule A.0116(e)]
  - l. Handling Disputed Trust Funds [Rule A.0116(d)]
3. **Handling of Trust Money** [G.S. 93A-6(a)(12); G.S. 93A-45(c); *primarily* Rule A.0116]
  - a. Basic Deposit Rule – Deposit in trust account within 3 banking days following receipt. [A.0116(a)]
  - b. Exceptions to Basic Deposit Rule [A.0116(b)]
    - (1) Trust Money Received by Provisional Broker – must be delivered upon receipt to the broker with whom PB is affiliated.
    - (2) Trust Money Received by a Limited Nonresident Commercial Broker [See Rule A.01808]
    - (3) Earnest Money or Tenant Security Deposits Paid by *Other than Currency* – must be deposited in TA within 3 days following acceptance of offer or lease.
    - (4) Check or other negotiable instrument payable to seller for an option or due diligence fee. [See rule]
  - c. General Responsibility of Licensees to Safeguard Trust Monies and Prohibitions Against Misuse of Trust Monies[A.0116(g)]



## **H. North Carolina Time Share Act [Level 1]**

***Note:** Students are only expected to have a **very basic** familiarity with time share regulation. Instructors only need to cover or assign the study of the statute and rule provisions specifically cited below.*

1. Definitions [G.S. 93A-41(2), (7a), (9), (9a), (12) and (13)]
2. Registration of Time Share Projects [G.S. 93A-40]
3. License Requirement [G.S. 93A-40]
4. Developer's Obligation to Record Time Share Instruments [G.S. 93A-42]
5. Escrow Requirements [G.S. 93A-42(c) and (d)]
6. Developer's Public Offering Statement [G.S. 93A-44]
7. Purchaser's Right to Cancel [G.S. 93A-45]
8. Commission's Disciplinary Authority [G.S. 93A-54]
9. Penalties [G.S. 93A-56]
10. Requirements for Registrar and Project Broker [G.S. 93A-58]
11. Time Share Sales Operations [Rules Section B.0400]
12. Handling and Accounting of Funds [Rules Section B.0500]
13. Project Broker [Rules Section B.0600]

## **XXI. AGENT SAFETY [0.5 hours]**

*[For this subject area, instructors should use the **North Carolina Real Estate Agent Safety Guide** brochure, which is published jointly by the North Carolina Association of REALTORS® Real Estate Safety Council and the North Carolina Real Estate Commission.]*

## **XXII. REAL ESTATE MATHEMATICS [No separate time allocation]**

*This section is included only for the purpose of listing in one place the types of applied real estate mathematics calculations which students should master in this course. As a practical matter, it will be more appropriate to cover these mathematics calculations at various points during the course. However, instructors may, at their discretion, cover some of the real estate mathematics separately from the subject matter to which they are related, adjusting time allocations accordingly.*

*It should be noted that the mathematics listed below is applied real estate mathematics. This course outline does not provide for instruction in **basic** mathematics such as addition, subtraction, multiplication, division, decimals, fractions, or percentages. It is presumed that entering students possess these elementary mathematics skills. Should it be necessary to provide students with remedial instruction in basic mathematics, schools*

*must include additional time for such instruction over and above the minimum time required for this course.*

*Instructors will note that competency and instructional levels are not assigned to topics in this section. It is considered obvious that students must possess the ability to apply mathematics concepts in “real world” situations in order for their knowledge to be useful. Thus, “application” is an inherent part of real estate mathematics. All real estate mathematics calculations have been noted as Level 3 topics elsewhere in the syllabus. Note: Due to classroom time limitations, instructors will need to utilize assigned homework to adequately teach real estate math.*

- A. Brokerage Commissions** (Sales and Property Management)
- B. Estimating Net to Seller** after Brokerage Fee and other Closing Expenses are Paid (when setting listing price or considering an offer) [Also, sale price needed to net \$X to seller]
- C. Profit/Loss on Sale of Real Estate** (including percentages); Equity (including percentages)
- D. Area and Related Calculations**
  - 1. Conversion of acreage to square footage and vice-versa
  - 2. Square footage of variously-shaped buildings and parcels of land with straight-line sides, including irregular shaped parcels/buildings. (Involves application of formulas for calculating the area of squares, rectangles, trapezoids and right triangles.)
  - 3. Square yards
  - 4. Volume (cubic feet)
  - 5. Cost/price per square foot/acre/front foot
  - 6. Acreage of a portion of a section of land (Government Survey System)
- E. Ad Valorem Property Taxes** (amount of tax using a given rate and assessed value – students should be able to perform the calculations using either a rate in dollars per \$100 (NC method) or a mill rate.)
- F. Excise Tax on Property Transfers**
- G. Finance Calculations**
  - 1. Simple Interest (How to compute monthly interest and amount of interest paid over life of a fixed-rate loan.)
  - 2. Monthly P & I Payment (How to compute monthly P & I payment using “factors,” given the loan amount, interest rate, term and factor.)

3. Mortgage Debt Reduction (How to compute principal balance after **one** monthly payment, given previous principal balance, monthly P & I payment and interest rate, without using amortization tables.)
4. Loan Origination Fees and Discount Points
5. Loan Value (applying loan-to-value ratios)
6. Yield (on mortgage loans involving discount points using “rule of thumb”)
7. Qualifying a Buyer [Using given maximum expense/income ratio and other relevant data, determining either: (1) the maximum PITI payment buyer can qualify for; (2) the maximum loan amount buyer can qualify for; (3) the minimum income required for buyer to qualify for a loan of “X” amount; (4) the maximum expenses buyer can have to qualify for a loan of “X” amount; or (5) whether or not buyer is qualified for a particular loan. Also, computing “housing expenses” and “long-term debts” (“recurring obligations”) using given data.]

#### **H. Closing Statements**

1. Calculation of amounts to be entered on closing statement when the licensee has the data necessary to perform the needed calculation [Examples: Prorations (real estate taxes, rent, HOA dues); interim interest; escrow deposits; etc.]
2. Calculation of “bottom-line” figures given all relevant needed information: Total settlement charges to buyer-borrower and seller; net due seller (cash to seller); cash from buyer-borrower.
3. Preparation of Closing Statement Worksheet *[Note: On the course final examination and the license examination, candidates will be provided a Closing Statement Worksheet form and a detailed closing narrative and required to answer several “bottom line” questions that will require proper completion of the entire closing statement worksheet in order to answer the questions correctly. Students should be thoroughly familiar with all facets of closing statement preparation as required in the section on “Closing Real Estate Transactions.”]*

#### **I. Valuation (Appraisal) Calculations**

1. Sales Comparison Approach and Comparative Market Analysis
2. Cost Approach
3. Income Approach (Income Capitalization and Gross Rent Multiplier Approaches)

**J      Property Management Calculations**

1.      Rent
2.      Effective Gross Income
3.      Operating Expenses
4.      Net Operating Income
5.      Cash Flow (after Debt Service)
6.      Percentage Lease (solving for amount of rent, amount of income or percentage of income)

**K.     Investment Calculations**

*[Note: See Section XIX Basic Real Estate Investment for a detailed list of investment calculations to be taught.]*

1.      Basic Calculations
2.      Calculations using a capitalization rate to evaluate a potential investment
3.      Calculations using an equity dividend rate (“cash on cash” rate of return) to evaluate a potential investment

# REAL ESTATE BROKER PRELICENSE COURSE

## BIBLIOGRAPHY

This Bibliography lists: (1) required student materials; (2) currently approved textbooks; (3) special instructor resources; (4) reference books and resource/study materials that may be helpful to instructors and students; (5) required standard forms; and (6) **publisher ordering information (last page)**.

### Required Student Materials

- (1) An approved textbook.  
Textbook will include:
  - ***North Carolina Real Estate License Law and Commission Rules and License Law and Rule Comments*** (also published in a separate booklet by the North Carolina Real Estate Commission – order through [www.ncrec.gov](http://www.ncrec.gov))
  - ***Residential Square Footage Guidelines*** (also published in a separate booklet by the North Carolina Real Estate Commission – order through [www.ncrec.gov](http://www.ncrec.gov))
- (2) ***North Carolina Real Estate Agent Safety Guide*** brochure published by the North Carolina Real Estate Commission and the North Carolina Association of REALTORS® Real Estate Safety Council.
- (3) **Standard Contract Forms** (as indicated in the outline).

### Currently Approved North Carolina Textbooks

*Only the most current edition is approved.*

**Galaty, Allaway, and Kyle, *Modern Real Estate Practice in North Carolina***, 8th ed. (2012)  
Dearborn Publishing Company. Deborah Carpenter, DREI is a contributing author.  
Instructor's Manual with test questions, Power Point slides, and *North Carolina Exam Guide* software also available.

**Mangum and Keck, *North Carolina Real Estate Principles and Practices***, 7<sup>th</sup> ed. (2013)  
OnCourse Learning. Instructor's Manual with lecture outlines and PowerPoint slides available.

**Note: As of late September, 2013, the 7th edition of this text is not yet available. Approval and availability is expected in mid-November of 2013.** Previous editions are not approved.

## **Special Instructor Resource**

**Hetrick, Outlaw and Moylan, *North Carolina Real Estate Manual***, (current edition - published biannually), North Carolina Real Estate Commission. *To order, select the “Publications” link on the home page of the Commission’s website (www.ncrec.gov).*

### **Reference Books and Resource/Study Materials**

The materials listed below may be useful to instructors and/or students.

#### **Real Estate Mathematics**

Armbrust, Bradley and Armbrust, *Practical Real Estate Math*, OnCourse Learning.

Crawford, Linda L., *Real Estate Math: What You Need to Know*, Dearborn.

Tamper, *Mastering Real Estate Math*, Dearborn.

#### **Real Estate Reference Materials (“Dictionary/Encyclopedia” Style)**

Reilly, *The Language of Real Estate*, Dearborn.

*The Vocabulary of Real Estate* Audio dictionary of basic real estate terminology. (A set of 4 CD’s with work/study guide and self-help test.) Polley & Associates.

#### **Preparing for the Examination Books and Software**

*These books primarily contain questions and sample examinations.*

Chandler, Gallagher, Reilly & Vitousek, *Exam Guide North Carolina: Interactive Software to Help You Pass the Real Estate Licensing Exam*, Dearborn.

Lawson, Virginia L., *AMP Real Estate Exam Prep*, OnCourse Learning.

Morgan, John, *Real Estate Exam Prep (AMP)*, On-The-Test Publishing.

Reilly and Vitousek, *Questions and Answers to Help You Pass the Real Estate Exam*, Dearborn.

Spada, Maria Darvin, *Real Estate National Licensing Exam Prep*, OnCourse Learning.

Sterling, Joyce Bea, *Guide to Passing the AMP Real Estate Exam*, Dearborn.

## AMP Sample and Self-Assessment Examinations (Online)

AMP has available online sample and self-assessment examinations that are similar to the “national” section of the NC license examination and that may be taken *online only for a fee*.

To access these examinations:

- Go to AMP’s website at [www.goamp.com](http://www.goamp.com); click on “E-Store,” then click on “Web Tests,” then click on “Real Estate.”
- Choose one of the following:
  - National Real Estate **Broker** Multiple-Choice *Sample* Examination (with score report by content area) “Suitable for Broker candidates in IL, NC, SD and WA
  - OR
  - National Real Estate **Broker** Multiple-Choice *Self-Assessment* Examination (with detailed explanations for each item) “Suitable for Broker candidates in IL, NC, SD and WA. *This is the same examination as the “Sample” examination except that it has explanations for the answers to questions.*

## Ordering Information

**OnCourse Learning** —by phone at 1-855-733-7239 or by email at [publishingsales@oncoursepublishing.com](mailto:publishingsales@oncoursepublishing.com) Website: [www.oncourselearning.com](http://www.oncourselearning.com)

**Dearborn** — by phone at 1-800-972-2220 or by email at [reorders@dearborn.com](mailto:reorders@dearborn.com)  
Websites: [www.dearbornre.com](http://www.dearbornre.com) [www.REcampus.com](http://www.REcampus.com)

**NCAR sponsored website** — to print required *sample* standard forms —  
[www.ncrealtors.org/sampleforms.cfm](http://www.ncrealtors.org/sampleforms.cfm)

**NC Real Estate Commission publications** (License Law and Commission Rules booklet, *Residential Square Footage Guidelines*, *NC Real Estate Agent Safety Guide*, and the *North Carolina Real Estate Manual*) — by phone at 1-866-833-5785, by fax at 1-866-867-3746, or by accessing the Commission’s Website at [www.ncrec.gov](http://www.ncrec.gov) (click on “Publications” on the home page). Please note that the *Manual* is available as a standard textbook (hard copy) or in digital form on a CD-ROM or via Online Subscription.

**On-The-Test Publishing** — by email at [info@On-the-Test.com](mailto:info@On-the-Test.com)  
Website: [www.On-The-Test.com](http://www.On-The-Test.com)

**Polley and Associates** — by phone at 1-610-353-6776, Website: [www.polleyassociates.com](http://www.polleyassociates.com)